

# STATE OF NEW YORK

8143

## IN SENATE

January 9, 2024

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 standardized health insurance contracts for small dental employers; and providing for the repeal of such provisions upon the expiration thereof

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

1 Section 1. The section heading and subsections (a), (c), (g), (h), (i)  
2 and (k) of section 4326 of the insurance law, as amended by section 56  
3 of part D of chapter 56 of the laws of 2013, are amended to read as  
4 follows:

5 Standardized health insurance contracts for qualifying small  
6 employers, qualifying small dental employers and individuals. (a) A  
7 program is hereby established for the purpose of making standardized  
8 health insurance contracts available to qualifying small employers and  
9 qualifying small dental employers as defined in this section. Such  
10 program is designed to encourage small employers to offer health insur-  
11 ance coverage to their employees.

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

14 (1) (A) A qualifying small employer is an employer with:

15 (i) not more than fifty employees;

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

20 (iii) at least thirty percent of its employees receiving annual wages  
21 from the employer at a level equal to or less than thirty thousand  
22 dollars. The thirty thousand dollar figure shall be adjusted period-  
23 ically pursuant to subparagraph (D) of this paragraph.

24 (B) The twelve month period set forth in item (ii) of subparagraph (A)  
25 of this paragraph may be adjusted by the superintendent from twelve  
26 months to eighteen months if he determines that the twelve month period

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

LBD13499-01-3

1 is insufficient to prevent inappropriate substitution of qualifying  
2 group health insurance contracts for other health insurance contracts.

3 (C) An employer shall cease to be a qualifying small employer if any  
4 health insurance that provides benefits on an expense reimbursed or  
5 prepaid basis covering an employer's employees, other than qualifying  
6 group health insurance purchased pursuant to this section, is purchased  
7 or otherwise takes effect subsequent to purchase of qualifying group  
8 health insurance under the program established by this section.

9 (D) The wage levels utilized in subparagraph (A) of this paragraph  
10 shall be adjusted annually, beginning in two thousand two. The adjust-  
11 ment shall take effect on July first of each year. For July first, two  
12 thousand two, the adjustment shall be a percentage of the annual wage  
13 figure specified in subparagraph (A) of this paragraph. For subsequent  
14 years, the adjustment shall be a percentage of the annual wage figure  
15 that took effect on July first of the prior year. The percentage adjust-  
16 ment shall be the same percentage by which the current year's non-farm  
17 federal poverty level, as defined and updated by the federal department  
18 of health and human services, for a family unit of four persons for the  
19 forty-eight contiguous states and Washington, D.C., changed from the  
20 same level established for the prior year.

21 (2) (A) A qualifying small dental employer is an employer with:

22 (i) not more than fifty employees;

23 (ii) at least one dentist licensed as a dentist under section sixty-  
24 six hundred four of the education law who practices general dentistry,  
25 provided that such dentist, and any additional dentist similarly  
26 licensed and practicing general dentistry with whom such dentist prac-  
27 tices in the same location, shall each provide at least ten dental  
28 office visits per month to patients receiving medical assistance cover-  
29 age under title eleven of article five of the social services law.  
30 Dental office visits provided to such patients shall include all  
31 services routinely provided to patients at such office location,  
32 provided that the services are covered by the patient's medical assist-  
33 ance coverage; and

34 (iii) at least two dental hygienists licensed as dental hygienists  
35 under section sixty-six hundred nine of the education law.

36 (B) An employer shall cease to be a qualifying small dental employer  
37 if any health insurance that provides benefits on an expense reimbursed  
38 or prepaid basis covering an employer's employees, other than qualifying  
39 group health insurance purchased pursuant to this section, is purchased  
40 or otherwise takes effect subsequent to purchase of qualifying group  
41 health insurance under the program established by this section.

42 (3) A qualifying group health insurance contract is a group contract  
43 purchased from a health maintenance organization, corporation or insurer  
44 by a qualifying small employer or qualifying small dental employer that  
45 provides the benefits set forth in subsection (d) of this section. The  
46 contract must insure not less than fifty percent of the employees.

47 (g) A health maintenance organization, corporation or insurer must  
48 offer the benefit package without change or additional benefits. A qual-  
49 ifying small employer or qualifying small dental employer shall be  
50 issued the benefit package in a qualifying group health insurance  
51 contract.

52 (h) A health maintenance organization, corporation or insurer shall  
53 obtain from the employer written certification at the time of initial  
54 application and annually thereafter ninety days prior to the contract  
55 renewal date that such employer meets the requirements of a qualifying  
56 small employer or qualifying small dental employer pursuant to this

1 section. A health maintenance organization, corporation or insurer may  
2 require the submission of appropriate documentation in support of the  
3 certification.

4 (i) Applications for qualifying group health insurance contracts must  
5 be accepted from any qualifying small employer or qualifying small  
6 dental employer at all times throughout the year. The superintendent, by  
7 regulation, may require health maintenance organizations, corporations  
8 or insurers to give preference to qualifying small employers whose  
9 employees have the lowest average salaries and to qualifying small  
10 dental employers who serve more than the threshold number of patients  
11 receiving medical assistance coverage under title eleven of article five  
12 of the social services law as identified in item (ii) of subparagraph  
13 (A) of paragraph two of subsection (c) of this section.

14 (k) A qualifying small employer or qualifying small dental employer  
15 shall elect whether to make coverage under the qualifying group health  
16 insurance contract available to dependents of employees. Any employee or  
17 dependent who is enrolled in Medicare is ineligible for coverage, unless  
18 required by federal law. Dependents of an employee who is enrolled in  
19 Medicare will be eligible for dependent coverage provided the dependent  
20 is not also enrolled in Medicare.

21 § 2. The section heading and subsections (m), (m-1) and (n) of section  
22 4327 of the insurance law, the section heading and subsections (m) and  
23 (n) as amended by section 58 of part D of chapter 56 of the laws of  
24 2013, and subsection (m-1) as amended by section 38 of subpart B of part  
25 J of chapter 57 of the laws of 2019, are amended to read as follows:

26 Stop loss funds for standardized health insurance contracts issued to  
27 qualifying small employers, qualifying small dental employers and quali-  
28 fying individuals.

29 (m) If at any point during a suspension of enrollment of new qualify-  
30 ing small employers and qualifying small dental employers, the super-  
31 intendent determines that funds are sufficient to provide for the addi-  
32 tion of new enrollments, the superintendent shall be authorized to  
33 reactivate new enrollments and to notify all health maintenance organ-  
34 izations, corporations or insurers that enrollment of new employers may  
35 again commence.

36 (m-1) In the event that the superintendent suspends the enrollment of  
37 new individuals for qualifying group health insurance contracts, the  
38 superintendent shall ensure that small employers, including small dental  
39 employers, seeking to enroll in a qualified group health insurance  
40 contract pursuant to section forty-three hundred twenty-six of this  
41 article are provided information on and directed to coverage options  
42 available through the health benefit exchange established by this state.

43 (n) The suspension of issuance of qualifying group health insurance  
44 contracts to new qualifying small employers and qualifying small dental  
45 employers shall not preclude the addition of new employees of an employ-  
46 er already covered under such a contract or new dependents of employees  
47 already covered under such contracts.

48 § 3. This act shall take effect one year after it shall have become a  
49 law and shall expire and be deemed repealed 5 years after such date.  
50 Effective immediately, the addition, amendment and/or repeal of any rule  
51 or regulation necessary for the implementation of this act on its effec-  
52 tive date are authorized to be made and completed on or before such  
53 effective date.