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:

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

Standardized health insurance contracts for qualifying small employers**, qualifying small dental employers** and individuals. (a) A program is hereby established for the purpose of making standardized health insurance contracts available to qualifying small employers **and qualifying small dental employers** as defined in this section. Such program is designed to encourage small employers to offer health insurance coverage to their employees.

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

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

(i) not more than fifty employees;

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

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

(B) The twelve month period set forth in item (ii) of subparagraph (A) of this paragraph may be adjusted by the superintendent from twelve 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

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

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

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

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

(i) not more than fifty employees;

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

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

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

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

(g) A health maintenance organization, corporation or insurer must offer the benefit package without change or additional benefits. A qualifying small employer **or qualifying small dental employer** shall be issued the benefit package in a qualifying group health insurance contract.

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

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

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

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

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

Stop loss funds for standardized health insurance contracts issued to qualifying small employers**, qualifying small dental employers** and qualifying individuals.

(m) If at any point during a suspension of enrollment of new qualifying small employers **and qualifying small dental employers**, the superintendent determines that funds are sufficient to provide for the addition of new enrollments, the superintendent shall be authorized to reactivate new enrollments and to notify all health maintenance organizations, corporations or insurers that enrollment of new employers may again commence.

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

(n) The suspension of issuance of qualifying group health insurance contracts to new qualifying small employers **and qualifying small dental employers** shall not preclude the addition of new employees of an employer already covered under such a contract or new dependents of employees already covered under such contracts.

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