STATE OF NEW YORK

9622

IN SENATE

May 16, 2024

Introduced by Sen. COONEY -- 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 allowing for Medicaid accountable care organizations to purchase experience-rated health insurance for their members

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

Section 1. Paragraph 1 of subsection (c) of section 4235 of the insurance law is amended by adding a new subparagraph (O) as follows:

(O) A policy issued to an accountable care organization issued a certificate of authorization pursuant to article twenty-nine-E of the public health law, or to a trustee or trustees of a fund established, created or maintained for the benefit of members of one or more accountable care organizations issued a certificate of authorization pursuant to article twenty-nine-E of the public health law, all of whose eligible members have the same profession, trade or occupation provided or related to the provision of health care, which association or associations have been organized and maintained in good faith for purposes principally other than that of obtaining insurance and have been in active existence for at least two years. The policy shall insure members, or employees of members, of such accountable care organization or organizations for the benefit of persons other than employers and the accountable care organization or organizations, or any officials, representatives, trustees or agents thereof and shall provide for the issuance of a certificate to the persons insured or such beneficiary as evidence of such insurance. The members or employees eligible for the insurance under the policy shall be all the members, or all the members and their employees, or all of any class or classes thereof determined by conditions pertaining to their employment or to the accountable care organization membership or both. The premiums for the policy shall be paid from the accountable care organization or members' funds, or partly from such funds and partly from funds contributed by the insured individuals, or from funds wholly contributed by the insured individuals. A policy on which all or part of the premium is to be derived from funds

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

LBD15655-01-4

contributed by the insured individuals specifically for their insurance must insure at least fifty percent of the then eligible individuals or a minimum of five hundred individuals, whichever is less, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer. A policy on which no part of the premium is to be derived from funds contributed by the insured individuals specifically for their insurance must cover all eligible individuals, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer. In every case the policy must cover at least one hundred individuals at date of issue. The insurance coverage on employees insured under the policy shall be based upon some plan precluding individual selection. However, with respect to such fund, or accountable care organization or accountable care organizations, such a plan may permit a number of selections by the fund, accountable care organization or accountable care organizations if the selections offered utilize consistent plans of coverage so that the resulting plans of coverage are reasonable. Furthermore, such a plan may permit a limited number of selections offered by employees or members if the selections offered utilize consistent plans of coverage for individual group members so that the resulting plans of coverage are reasonable. If a policy dividend is declared or a reduction in rate is made under such a policy, the excess, if any, of the aggregate dividends or rate reductions under the policy over the aggregate expenditure for insurance under such policy made from the accountable care organization or employer funds, including expenditures made in connection with administration of such policy, shall be applied by the policyholder for the sole benefit of the insured individuals. A policy issued pursuant to this subparagraph shall provide a conversion privilege no less favorable than that provided for in subsection (e) of section three thousand two hundred twenty-one of this chapter.

§ 2. Subsection (g) of section 3231 of the insurance law, as amended by section 70 of part D of chapter 56 of the laws of 2013, paragraph 1 as amended by chapter 12 of the laws of 2016, is amended to read as follows:

(g) (1) Unless otherwise described in paragraph three of this subsection: (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 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.

(2) [~~If~~] **Unless otherwise described in paragraph three of this subsection, if** a policy is issued to a group defined in subsection (c) of section four thousand two hundred thirty-five of this chapter, including an association group, that includes one or more individual or individual proprietor members, for rating purposes the insurer shall include such members in its individual pool of risks in establishing premium rates for such members.

(3) This subsection shall not apply to a policy issued to a group defined in subparagraph (O) of paragraph one of subsection (c) of section four thousand two hundred thirty-five of this chapter, even if the group includes one or more member employers or other member groups which have one hundred or fewer employees or members exclusive of spouses and dependents, if the following criteria are met:

(A) the group is comprised of at least one hundred fifty member employers;

(B) the collective number of individuals insured under the policy exceeds five hundred persons;

(C) each employer in the group is enrolled as a provider in the state's Medicaid program; and

(D) each employer in the group can demonstrate an annual payer mix in which Medicaid represents sixty percent or more of annual revenues.

§ 3. Paragraph 1 of subsection (d) of section 4317 of the insurance law, as amended by chapter 12 of the laws of 2016, is amended and a new paragraph 4 is added to read as follows:

(1) (A) [~~This~~] **Unless otherwise described in paragraph four of this subsection, 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 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.

(4) This subsection shall not apply to a policy issued to a group defined in paragraph (O) of subsection (c) of section four thousand two

hundred thirty-five of this chapter, even if the group includes one or more member employers or other member groups which have one hundred or fewer employees or members exclusive of spouses and dependents, if the following criteria are met:

(A) the group is comprised of at least one hundred fifty member employers;

(B) the collective number of individuals insured under the policy exceeds five hundred persons;

(C) each employer in the group is enrolled as a provider in the state's Medicaid program; and

(D) each employer in the group can demonstrate an annual payer mix in which Medicaid represents sixty percent or more of annual revenues.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to paragraph (1) of subsection (g) of section 3231 and paragraph (1) of subsection (d) of section 4317 of the insurance law made by sections two and three of this act shall not affect the expiration of such paragraphs and shall be deemed to expire therewith.