

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:

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

2
3 (O) A policy issued to an accountable care organization issued a
4 certificate of authorization pursuant to article twenty-nine-E of the
5 public health law, or to a trustee or trustees of a fund established,
6 created or maintained for the benefit of members of one or more account-
7 able care organizations issued a certificate of authorization pursuant
8 to article twenty-nine-E of the public health law, all of whose eligible
9 members have the same profession, trade or occupation provided or
10 related to the provision of health care, which association or associ-
11 ations have been organized and maintained in good faith for purposes
12 principally other than that of obtaining insurance and have been in
13 active existence for at least two years. The policy shall insure
14 members, or employees of members, of such accountable care organization
15 or organizations for the benefit of persons other than employers and the
16 accountable care organization or organizations, or any officials, repre-
17 sentatives, trustees or agents thereof and shall provide for the issu-
18 ance of a certificate to the persons insured or such beneficiary as
19 evidence of such insurance. The members or employees eligible for the
20 insurance under the policy shall be all the members, or all the members
21 and their employees, or all of any class or classes thereof determined
22 by conditions pertaining to their employment or to the accountable care
23 organization membership or both. The premiums for the policy shall be
24 paid from the accountable care organization or members' funds, or partly
25 from such funds and partly from funds contributed by the insured indi-
26 viduals, or from funds wholly contributed by the insured individuals. A
27 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.

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1 contributed by the insured individuals specifically for their insurance
2 must insure at least fifty percent of the then eligible individuals or a
3 minimum of five hundred individuals, whichever is less, excluding any as
4 to whom evidence of individual insurability is not satisfactory to the
5 insurer. A policy on which no part of the premium is to be derived from
6 funds contributed by the insured individuals specifically for their
7 insurance must cover all eligible individuals, excluding any as to whom
8 evidence of individual insurability is not satisfactory to the insurer.
9 In every case the policy must cover at least one hundred individuals at
10 date of issue. The insurance coverage on employees insured under the
11 policy shall be based upon some plan precluding individual selection.
12 However, with respect to such fund, or accountable care organization or
13 accountable care organizations, such a plan may permit a number of
14 selections by the fund, accountable care organization or accountable
15 care organizations if the selections offered utilize consistent plans of
16 coverage so that the resulting plans of coverage are reasonable.
17 Furthermore, such a plan may permit a limited number of selections
18 offered by employees or members if the selections offered utilize
19 consistent plans of coverage for individual group members so that the
20 resulting plans of coverage are reasonable. If a policy dividend is
21 declared or a reduction in rate is made under such a policy, the excess,
22 if any, of the aggregate dividends or rate reductions under the policy
23 over the aggregate expenditure for insurance under such policy made from
24 the accountable care organization or employer funds, including expendi-
25 tures made in connection with administration of such policy, shall be
26 applied by the policyholder for the sole benefit of the insured individ-
27 uals. A policy issued pursuant to this subparagraph shall provide a
28 conversion privilege no less favorable than that provided for in
29 subsection (e) of section three thousand two hundred twenty-one of this
30 chapter.

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

35 (g) (1) Unless otherwise described in paragraph three of this
36 subsection: (A) This section shall also apply to policies issued to a
37 group defined in subsection (c) of section four thousand two hundred
38 thirty-five of this chapter, including but not limited to an association
39 or trust of employers, if the group includes one or more member employ-
40 ers or other member groups having one hundred or fewer employees or
41 members exclusive of spouses and dependents. For a policy issued or
42 renewed on or after January first, two thousand fourteen, if the group
43 includes one or more member small group employers eligible for coverage
44 subject to this section, then such member employers shall be classified
45 as small groups for rating purposes and the remaining members shall be
46 rated consistent with the rating rules applicable to such remaining
47 members pursuant to paragraph two of this subsection. (B) Subparagraph A
48 of this paragraph shall not apply to either the renewal of a policy
49 issued to a group or the issuance, between January first, two thousand
50 sixteen and December thirty-first, two thousand sixteen, of a policy,
51 and any renewal thereof, to a group, provided that the following three
52 requirements are met: (I) the group had been issued a policy that was in
53 effect on July first, two thousand fifteen; (II) the group had member
54 employers, who, on or after July first, two thousand fifteen, have
55 between fifty-one and one hundred employees, exclusive of spouses and
56 dependents; and (III) the group is either: (i) comprised entirely of one

1 or more municipal corporations or districts (as such terms are defined
2 in section one hundred nineteen-n of the general municipal law); or (ii)
3 comprised entirely of nonpublic schools providing education in any grade
4 from pre-kindergarten through twelfth grade.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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