

STATE OF NEW YORK

2113--A

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sens. COONEY, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 (0) as follows:

2
3 (0) A policy issued to a Medicaid accountable care organization
4 comprised wholly of private physician practices issued a certificate of
5 authorization pursuant to article twenty-nine-E of the public health
6 law, or to a trustee or trustees of a fund established, created or main-
7 tained for the benefit of members of one or more Medicaid accountable
8 care organizations issued a certificate of authorization pursuant to
9 article twenty-nine-E of the public health law, all of whose eligible
10 members have the same profession, trade or occupation provided or
11 related to the provision of health care, which association or associ-
12 ations have been organized and maintained in good faith for purposes
13 principally other than that of obtaining insurance and have been in
14 active existence for at least two years. The policy shall insure
15 members, or employees of members, of such Medicaid accountable care
16 organization or organizations for the benefit of persons other than
17 employers and the Medicaid accountable care organization or organiza-
18 tions, or any officials, representatives, trustees or agents thereof and
19 shall provide for the issuance of a certificate to the persons insured
20 or such beneficiary as evidence of such insurance. The members or
21 employees eligible for the insurance under the policy shall be all the
22 members, or all the members and their employees, or all of any class or

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

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classes thereof determined by conditions pertaining to their employment or to the Medicaid accountable care organization membership or both. The premiums for the policy shall be paid from the Medicaid 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 contributed by the insured individuals specifically for their insurance shall 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 Medicaid accountable care organization or Medicaid accountable care organizations, such a plan may permit a number of selections by the fund, Medicaid accountable care organization or Medicaid 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 Medicaid 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

1 sixteen and December thirty-first, two thousand sixteen, of a policy,
2 and any renewal thereof, to a group, provided that the following three
3 requirements are met: (I) the group had been issued a policy that was in
4 effect on July first, two thousand fifteen; (II) the group had member
5 employers, who, on or after July first, two thousand fifteen, have
6 between fifty-one and one hundred employees, exclusive of spouses and
7 dependents; and (III) the group is either: (i) comprised entirely of one
8 or more municipal corporations or districts (as such terms are defined
9 in section one hundred nineteen-n of the general municipal law); or (ii)
10 comprised entirely of nonpublic schools providing education in any grade
11 from pre-kindergarten through twelfth grade.

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

19 (3) This subsection shall not apply to a policy issued to a group
20 defined in subparagraph (0) of paragraph one of subsection (c) of
21 section four thousand two hundred thirty-five of this chapter, even if
22 the group includes one or more member employers or other member groups
23 which have one hundred or fewer employees or members exclusive of spouses
24 and dependents, if the following criteria are met:

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

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

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

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

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

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

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

6 (4) This subsection shall not apply to a policy issued to a group
7 defined in paragraph (0) of subsection (c) of section four thousand two
8 hundred thirty-five of this chapter, even if the group includes one or
9 more member employers or other member groups which have one hundred or
10 fewer employees or members exclusive of spouses and dependents, if the
11 following criteria are met:

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

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

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

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

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