§ 4407. Health maintenance organizations; employer requirements. 1. All employers subject to the provisions of the unemployment insurance law, except for those employers with fewer than twenty-five employees, shall include in any health benefits plan offered to their employees, the option of membership in a health maintenance organization which provides or offers a comprehensive health services plan in accordance with the provisions of this article, but only if such plan serves an area in which twenty-five of such employer's employees reside and the organization has been issued a certificate of authority by the commissioner.

2. For those employees of an employer represented by a bargaining representative, the offer of the health maintenance organization alternative shall be subject only to the collective bargaining process; for those employees not represented by a bargaining representative, the offer of the health maintenance organization alternative shall be made directly to the employee.

3. (a) If there is more than one health maintenance organization engaged in the provision of health services in the area in which the employees of the employer reside, and if:

(i) one or more of such organizations provides more than one-half of its comprehensive health services through physicians or other health professionals who are members of the staff of the organization or of a medical group (or groups) which contracts with the organization, and

(ii) one or more of such organizations provides its comprehensive health services through contracts with an individual practice association (or associations), individual physicians and other health professionals under contract directly with the organization, or a combination of an individual practice association (or associations), medical group (or groups), physicians who are members of the staff of the organization, and individual physicians and other health professionals under contract directly with the organization,

then the employer shall, in accordance with regulations of the commissioner, be required to offer the option of enrollment in at least one organization described in subparagraph (i) of this paragraph and at least one organization described in subparagraph (ii) of this paragraph

if the employer has twenty-five or more but fewer than two hundred employees. If the employer has two hundred or more employees and the employer's principal office in this state is located outside of the metropolitan region then the employer shall be required to offer the option of enrollment in at least two organizations described in subparagraph (i) of this paragraph and at least two organizations described in subparagraph (ii) of this paragraph. If the employer has two hundred or more employees and the employer's principal office in this state is located within the metropolitan region then the employer shall be required to offer the option of enrollment in at least two organizations described in subparagraph (i) of this paragraph and at least two organizations described in subparagraph (ii) of this paragraph and an additional organization from either subparagraph. For the purposes of this section the metropolitan region is defined as the counties of Westchester, Rockland, New York, Kings, Queens, Richmond, Bronx, Nassau and Suffolk.

(b) If within any particular area of the state in which at least twenty-five of such employer's employees reside there are fewer health maintenance organizations described in subparagraph (i) or (ii) of paragraph (a) of this subdivision than the employer is required to offer, then additional health maintenance organizations from subparagraph (i) or (ii) of paragraph (a) of this subdivision shall be offered; provided, however, that no employer with fewer than two hundred employees shall be required to offer more than a total of two health maintenance organizations, and no employer with two hundred or more employees shall be required to offer more than a total of four health maintenance organizations (or five such organizations if the employer's principal office is located within the metropolitan region) in any particular area of the state. In the event fewer than the required total minimum number of health maintenance organizations are available in an area, the employer shall offer all health maintenance organizations then certified to issue subscriber contracts in that area. Nothing in this subdivision shall be deemed to prohibit an employer from choosing to offer more health maintenance organizations to its employees than are required under this subdivision.

4. No employer shall be required to pay more for health benefits as a

result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between an employer and his employees.