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SENATE BILL 381

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO HEALTH INSURANCE; EXPANDING THE HEALTH INSURANCE ALLIANCE COVERAGE TO EMPLOYERS WHOSE EMPLOYEES PARTICIPATE IN PUBLICLY OFFERED PROGRAMS BASED ON EMPLOYEES' INCOME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-56-14 NMSA 1978 (being Laws 1994, Chapter 75, Section 14, as amended) is amended to read:

"59A-56-14. ELIGIBILITY--GUARANTEED ISSUE--PLAN PROVISIONS.--

A. A small employer is eligible for an approved health plan if on the effective date of coverage or renewal:

(1) at least fifty percent of its employees not otherwise insured elect to be covered under the approved health plan;

(2) the small employer has not terminated

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1 coverage with an approved health plan within three years of the
2 date of application for coverage except to change to another
3 approved health plan; and

4 (3) the small employer does not offer other
5 general group health insurance coverage to its employees. For
6 the purposes of this paragraph, general group health insurance
7 coverage excludes coverage ~~[providing]~~ that:

8 (a) is offered by a state or federal
9 agency to a small employer's employee whose eligibility for
10 alternative coverage is based on the employee's income; or

11 (b) provides only a specific limited
12 form of health insurance such as accident or disability income
13 insurance coverage or a specific health care service such as
14 dental care.

15 B. An individual is eligible for an approved health
16 plan if on the effective date of coverage or renewal ~~[he]~~ the
17 individual meets the definition of an eligible individual under
18 Section 59A-56-3 NMSA 1978.

19 C. An approved health plan shall provide in
20 substance that attainment of the limiting age by an unmarried
21 dependent individual does not operate to terminate coverage
22 when the individual continues to be incapable of self-
23 sustaining employment by reason of developmental disability or
24 physical handicap and the individual is primarily dependent for
25 support and maintenance upon the employee. Proof of incapacity

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1 and dependency shall be furnished to the alliance and the
2 member that offered the approved health plan within one hundred
3 twenty days of attainment of the limiting age. The board may
4 require subsequent proof annually after a two-year period
5 following attainment of the limiting age.

6 D. An approved health plan shall provide that the
7 health insurance benefits applicable for eligible dependents
8 are payable with respect to a newly born child of the family
9 member or the individual in whose name the contract is issued
10 from the moment of birth, including the necessary care and
11 treatment of medically diagnosed congenital defects and birth
12 abnormalities. If payment of a specific premium is required to
13 provide coverage for the child, the contract may require that
14 notification of the birth of a child and payment of the
15 required premium shall be furnished to the member within
16 thirty-one days after the date of birth in order to have the
17 coverage from birth. An approved health plan shall provide
18 that the health insurance benefits applicable for eligible
19 dependents are payable for an adopted child in accordance with
20 the provisions of Section 59A-22-34.1 NMSA 1978.

21 E. Except as provided in Subsections G, H and I of
22 this section, an approved health plan offered to a small
23 employer may contain a preexisting condition exclusion only if:

24 (1) the exclusion relates to a condition,
25 physical or mental, regardless of the cause of the condition,

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1 for which medical advice, diagnosis, care or treatment was
2 recommended or received within the six-month period ending on
3 the enrollment date;

4 (2) the exclusion extends for a period of not
5 more than six months after the enrollment date; and

6 (3) the period of the exclusion is reduced by
7 the aggregate of the periods of creditable coverage applicable
8 to the participant or beneficiary as of the enrollment date.

9 F. As used in this section, "preexisting condition
10 exclusion" means a limitation or exclusion of benefits relating
11 to a condition based on the fact that the condition was present
12 before the date of enrollment for coverage for the benefits
13 whether or not any medical advice, diagnosis, care or treatment
14 was recommended or received before that date, but genetic
15 information is not included as a preexisting condition for the
16 purposes of limiting or excluding benefits in the absence of a
17 diagnosis of the condition related to the genetic information.

18 G. An insurer shall not impose a preexisting
19 condition exclusion:

20 (1) in the case of an individual who, as of
21 the last day of the thirty-day period beginning with the date
22 of birth, is covered under creditable coverage;

23 (2) that excludes a child who is adopted or
24 placed for adoption before ~~[his]~~ the child's eighteenth
25 birthday and who, as of the last day of the thirty-day period

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1 beginning on and following the date of the adoption or
2 placement for adoption, is covered under creditable coverage;
3 or

4 (3) that relates to or includes pregnancy as a
5 preexisting condition.

6 H. The provisions of Paragraphs (1) and (2) of
7 Subsection G of this section do not apply to any individual
8 after the end of the first continuous sixty-three-day period
9 during which the individual was not covered under any
10 creditable coverage.

11 I. The preexisting condition exclusions described
12 in Subsection E of this section shall be waived to the extent
13 to which similar exclusions have been satisfied under any prior
14 health insurance coverage if the effective date of coverage for
15 health insurance through the alliance is made not later than
16 sixty-three days following the termination of the prior
17 coverage. In that case, coverage through the alliance shall be
18 effective from the date on which the prior coverage was
19 terminated. This subsection does not prohibit preexisting
20 conditions coverage in an approved health plan that is more
21 favorable to the covered individual than that specified in this
22 subsection.

23 J. An approved health plan issued to an eligible
24 individual shall not contain any preexisting condition
25 exclusion.

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1 K. An individual is not eligible for coverage by
2 the alliance under an approved health plan issued to a small
3 employer if ~~[he]~~ the individual:

4 (1) is eligible for medicare; provided,
5 however, if an individual has health insurance coverage from an
6 employer whose group includes twenty or more individuals, an
7 individual eligible for medicare who continues to be employed
8 may choose to be covered through an approved health plan;

9 (2) has voluntarily terminated health
10 insurance issued through the alliance within the past twelve
11 months unless it was due to a change in employment; or

12 (3) is an inmate of a public institution.

13 L. The alliance shall provide for an open
14 enrollment period of sixty days from the initial offering of an
15 approved health plan. Individuals enrolled during the open
16 enrollment period shall not be subject to the preexisting
17 conditions limitation.

18 M. If an insured covered by an approved health plan
19 switches to another approved health plan that provides
20 increased or additional benefits such as lower deductible or
21 co-payment requirements, the member offering the approved
22 health plan with increased or additional benefits may require
23 the six-month period for preexisting conditions provided in
24 Subsection E of this section to be satisfied prior to receipt
25 of the additional benefits."

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