

HOUSE LABOR, VETERANS' AND MILITARY AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 255

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO EMPLOYEE LEASING; CODIFYING THE INSURANCE MARKET
RULES APPLICABLE TO GROUP HEALTH PLANS SPONSORED BY EMPLOYEE
LEASING CONTRACTORS.

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

SECTION 1. A new section of the New Mexico Insurance Code
is enacted to read:

.225003.3AIC March 17, 2023 (1:48pm)

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"[NEW MATERIAL] EMPLOYEE LEASING CONTRACTOR GROUP HEALTH PLAN REQUIREMENTS.--

A. A group health plan sponsored by an employee leasing contractor shall be treated as a multiple employer welfare arrangement for purposes of the Insurance Code.

SJC→B. A group health plan sponsored by an employee leasing contractor shall be a fully insured plan.←SJC

SJC→B.←SJC SJC→C.←SJC For the purposes of determining whether an employee leasing contractor is a small or large employer, the employee leasing contractor's leased workers shall be counted as employees in addition to the employee leasing contractor's employees, and when an employee leasing contractor has:

(1) at least two but not more than fifty employees, the employee leasing contractor shall be treated as a small employer pursuant to the Health Insurance Portability Act, and the group health plan that it sponsors shall be subject to the rules of the small group market SJC→, including rules applicable to the small group market by reason of the federal Patient Protection and Affordable Care Act←SJC ; and

(2) fifty-one or more employees, the employee leasing contractor shall be treated as a large employer pursuant to the Health Insurance Portability Act, and the group health plan that it sponsors shall be subject to the rules of the large group market SJC→, including rules applicable to the

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large group market by reason of the federal Patient Protection and Affordable Care Act ←SJC .

SJC→~~C.~~←SJC SJC→D.←SJC With respect to a group health plan described in this section that is subject to large group market rules, the rules shall apply to the group health plan as a whole and any rules applicable solely to other markets, such as the small group market or individual market, shall not apply to the group health plan or to any of the coverage provided by the group health plan.

~~SJC→D. With respect to group health plans described in this section, the group health plans and the coverage provided by the group health plans shall not be made subject to rate standards or mandated benefits or coverage not otherwise generally applicable to policies offered in the respective group market to which the group health plan belongs.~~←SJC

E. For the purposes of this section:

(1) "employee leasing contractor" means any person who is registered as an employee leasing contractor pursuant to the Employee Leasing Act;

(2) "individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan;

(3) "large group market" means the health insurance market under which individuals obtain health insurance coverage on behalf of themselves and their dependents

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through a group health plan maintained by a large employer;

(4) "leased worker" means a worker provided by an employee leasing contractor who is treated as a leased worker for the purposes of the Employee Leasing Act;

(5) "multiple employer welfare arrangement" means a plan for providing welfare benefits for employees of more than one employer as defined by 29 U.S.C. Section 1002; and

(6) "small group market" means the health insurance market under which individuals obtain health insurance coverage through a group health plan maintained by a small employer."

SECTION 2. Section 59A-23-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 462, as amended) is amended to read:

"59A-23-3. GROUP HEALTH INSURANCE.--

A. Group health insurance is that form of health insurance covering groups of persons, with or without their dependents, and issued upon the following basis:

(1) under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer for the benefit of persons other than the employer. The term "employees", as used in this section, includes the officers, managers and employees of the employer, leased workers if the employer is registered as an employee leasing contractor pursuant to the Employee Leasing Act, the

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partners, if the employer is a partnership, the officers, managers and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms the business of which is controlled by the insured employer through stock ownership, contract or otherwise. The term "employer", as used in this section, includes any municipal or governmental corporation, unit, agency or department thereof and the proper officers, as such, or any unincorporated municipality or department thereof, as well as private individuals, partnerships and corporations. A small employer shall also be subject to the Small Group Rate and Renewability Act. A "small employer" means any person, firm, corporation, partnership or association actively engaged in business who, on at least fifty percent of its working days during the preceding year, employed no more than fifty eligible employees. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation shall be considered one employer;

(2) under a policy issued to an association, including a labor union and an agricultural association, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five

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members of the association for the benefit of persons other than the association or its officers or trustees, as such;

(3) under a policy issued to a cooperative; or

(4) under a policy issued to any other

substantially similar group that, in the discretion of the superintendent, may be subject to the issuance of a group sickness and accident policy or contract.

B. Each policy, as provided by this section, shall contain in substance the following provisions:

(1) a provision that the policy, the application of the policyholder, if such application or copy thereof is attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements, in the absence of fraud, made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application for such insurance;

(2) a provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member and to whom

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benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit; and

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

C. For purposes of this section only, the directors of a corporation shall be deemed to be employees of the corporation.

D. For the purposes of this section, "cooperative" means a private health insurance cooperative established pursuant to Section [~~2 of this 2011 act~~] 59A-23-11 NMSA 1978."

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