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

(3) the small employer does not offer other general group health insurance coverage to its employees.

For the purposes of this paragraph, general group health insurance coverage excludes coverage that:

(a) is offered by a state or federal agency to a small employer's employee whose eligibility for

1 alternative coverage is based on the employee's income; or

2 (b) provides only a specific limited
3 form of health insurance such as accident or disability
4 income insurance coverage or a specific health care service
5 such as dental care.

6 B. An individual is eligible for an approved
7 health plan if on the effective date of coverage or renewal
8 the individual meets the definition of an eligible individual
9 under Section 59A-56-3 NMSA 1978.

10 C. An approved health plan shall provide in
11 substance that attainment of the limiting age by an unmarried
12 dependent individual does not operate to terminate coverage
13 when the individual continues to be incapable of self-
14 sustaining employment by reason of developmental disability
15 or physical handicap and the individual is primarily
16 dependent for support and maintenance upon the employee.
17 Proof of incapacity and dependency shall be furnished to the
18 alliance and the member that offered the approved health plan
19 within one hundred twenty days of attainment of the limiting
20 age. The board may require subsequent proof annually after a
21 two-year period following attainment of the limiting age.

22 D. An approved health plan shall provide that the
23 health insurance benefits applicable for eligible dependents
24 are payable with respect to a newly born child of the family
25 member or the individual in whose name the contract is issued

1 from the moment of birth, including the necessary care and
2 treatment of medically diagnosed congenital defects and birth
3 abnormalities. If payment of a specific premium is required
4 to provide coverage for the child, the contract may require
5 that notification of the birth of a child and payment of the
6 required premium shall be furnished to the member within
7 thirty-one days after the date of birth in order to have the
8 coverage from birth. An approved health plan shall provide
9 that the health insurance benefits applicable for eligible
10 dependents are payable for an adopted child in accordance
11 with the provisions of Section 59A-22-34.1 NMSA 1978.

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

16 (1) the exclusion relates to a condition,
17 physical or mental, regardless of the cause of the condition,
18 for which medical advice, diagnosis, care or treatment was
19 recommended or received within the six-month period ending on
20 the enrollment date;

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

23 (3) the period of the exclusion is reduced
24 by the aggregate of the periods of creditable coverage
25 applicable to the participant or beneficiary as of the

1 enrollment date.

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

12 G. An insurer shall not impose a preexisting
13 condition exclusion:

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

17 (2) that excludes a child who is adopted or
18 placed for adoption before the child's eighteenth birthday
19 and who, as of the last day of the thirty-day period
20 beginning on and following the date of the adoption or
21 placement for adoption, is covered under creditable coverage;
22 or

23 (3) that relates to or includes pregnancy as
24 a preexisting condition.

25 H. The provisions of Paragraphs (1) and (2) of

1 Subsection G of this section do not apply to any individual
2 after the end of the first continuous sixty-three-day period
3 during which the individual was not covered under any
4 creditable coverage.

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

17 J. An approved health plan issued to an eligible
18 individual shall not contain any preexisting condition
19 exclusion.

20 K. An individual is not eligible for coverage by
21 the alliance under an approved health plan issued to a small
22 employer if the individual:

23 (1) is eligible for medicare; provided,
24 however, if an individual has health insurance coverage from
25 an employer whose group includes twenty or more individuals,

1 an individual eligible for medicare who continues to be
2 employed may choose to be covered through an approved health
3 plan;

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

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

8 L. The alliance shall provide for an open
9 enrollment period of sixty days from the initial offering of
10 an approved health plan. Individuals enrolled during the
11 open enrollment period shall not be subject to the
12 preexisting conditions limitation.

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