STATE OF ARIZONA
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1085

AN ACT
AMENDING SECTION 20-2324, ARIZONA REVISED STATUTES; RELATING TO ACCOUNTABLE HEALTH PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-2324, Arizona Revised Statutes, is amended to read:

20-2324. Bona fide associations: definitions

A. On or before January 1 of each year, every association that qualifies as a PATH 1 bona fide association shall file a statement with the director that certifies that the association IF THE ASSOCIATION MEETS THE FOLLOWING REQUIREMENTS:

1. Has been in active existence for at least five years.
2. Has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership in the association on the purchase of insurance that is sponsored by the association.
3. Has a constitution and bylaws.
4. Insures at least twenty-five members, employees or employees of members of the association for the benefit of persons other than the association or its officers or trustees.
5. Does not condition membership in the association on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee, and clearly states this in all membership and application materials.
6. Makes health benefits plans offered through the association available to all members regardless of any health status-related factor relating to any member of the association or individual eligible for coverage through a member and clearly states this in all membership and application materials.
7. Does not make health benefits plans offered through the association available other than in connection with a member of the association and clearly states this in all membership and application materials.

B. AN ASSOCIATION QUALIFIES AS A PATH 2 BONA FIDE ASSOCIATION IF THE ASSOCIATION MEETS THE REQUIREMENTS OF 29 CODE OF FEDERAL REGULATIONS SECTION 2510.3-5. AN INSURER ELECTING TO OFFER HEALTH BENEFITS PLANS THROUGH A BONA FIDE ASSOCIATION TO SMALL EMPLOYER GROUPS OF ONE, WHICH MAY INCLUDE SOLE PROPRIETORS OR WORKING OWNERS, IS NOT REQUIRED TO MAKE HEALTH BENEFITS PLANS AVAILABLE UNDER SECTION 20-2304, SUBSECTION A TO SMALL EMPLOYER GROUPS OF ONE IF THE SMALL EMPLOYER IS NOT SEEKING A HEALTH BENEFITS PLAN THROUGH A BONA FIDE ASSOCIATION.

C. The requirements of section 20-2304, subsection A shall not apply to health benefits plans offered by an accountable health plan if the accountable health plan makes this coverage available in the small group market only through one or more PATH 1 bona fide associations.

D. THE DEPARTMENT MAY SURVEY INSURERS ISSUING HEALTH BENEFITS PLANS TO DETERMINE THE NUMBER OF HEALTH BENEFITS PLANS ISSUED TO BONA FIDE ASSOCIATIONS IN THIS STATE EACH YEAR.
E. THIS SECTION DOES NOT LIMIT OR PROHIBIT THE ISSUANCE OF SELF-FUNDED HEALTH BENEFITS PLANS IN THIS STATE THROUGH A BONA FIDE ASSOCIATION IF THE ASSOCIATION IS ESTABLISHED AND OPERATING IN COMPLIANCE WITH APPLICABLE PROVISIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974. THE DEPARTMENT RETAINS THE AUTHORITY TO INVESTIGATE WHETHER AN ASSOCIATION IS UNLAWFULLY TRANSACTING INSURANCE IN VIOLATION OF THIS TITLE.

F. As used in FOR THE PURPOSES OF SUBSECTION A OF this section, the term "employees" shall be deemed to include INCLUDES retired employees.

G. FOR THE PURPOSES OF THIS SECTION:
   1. "BONA FIDE ASSOCIATION" INCLUDES PATH 1 BONA FIDE ASSOCIATIONS AND PATH 2 BONA FIDE ASSOCIATIONS.
   2. "SMALL EMPLOYER" INCLUDES, IF AN INSURER ELECTS TO ISSUE COVERAGE TO SMALL EMPLOYER GROUPS OF ONE:
      (a) FOR HEALTH BENEFITS PLANS ISSUED THROUGH A BONA FIDE ASSOCIATION, AN EMPLOYER WHO EMPLOYS AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE EMPLOYEES ON A TYPICAL BUSINESS DAY DURING ANY ONE CALENDAR YEAR.
      (b) FOR HEALTH BENEFITS PLANS ISSUED THROUGH A PATH 2 BONA FIDE ASSOCIATION, A SOLE PROPRIETOR OR WORKING OWNER.
   3. "SOLE PROPRIETOR" MEANS A PERSON WHO IS A WORKING OWNER, WHO OWNS A BUSINESS AND WHO DOES NOT OPERATE THE BUSINESS USING ANY TYPE OF ENTITY.
   4. "WORKING OWNER" MEANS A PERSON WHO A RESPONSIBLE PLAN FIDUCIARY REASONABLY DETERMINES IS AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS:
      (a) HAS AN OWNERSHIP RIGHT OF ANY NATURE IN A TRADE OR BUSINESS, WHETHER INCORPORATED OR UNINCORPORATED, INCLUDING A PARTNER AND ANOTHER SELF-EMPLOYED INDIVIDUAL.
      (b) IS EARNING WAGES OR SELF-EMPLOYMENT INCOME FROM THE TRADE OR BUSINESS FOR PROVIDING PERSONAL SERVICES TO THE TRADE OR BUSINESS.
      (c) EITHER:
         (i) WORKS ON AVERAGE AT LEAST TWENTY HOURS PER WEEK OR AT LEAST EIGHTY HOURS PER MONTH PROVIDING PERSONAL SERVICES TO THE TRADE OR BUSINESS.
         (ii) HAS WAGES OR SELF-EMPLOYMENT INCOME FROM THE TRADE OR BUSINESS THAT AT LEAST EQUALS THE WORKING OWNER'S COST OF COVERAGE FOR PARTICIPATION BY THE WORKING OWNER AND ANY COVERED BENEFICIARIES IN THE GROUP HEALTH PLAN SPONSORED BY THE ASSOCIATION IN WHICH THE INDIVIDUAL IS PARTICIPATING.

Sec. 2. Department of insurance; association health plans; information

On or before January 1, 2020, the department of insurance shall post information on the department's public website that summarizes applicable state law and other pertinent information related to association health plans.