



House of Representatives

General Assembly

File No. 35

January Session, 2009

Substitute House Bill No. 6277

House of Representatives, March 9, 2009

The Committee on Insurance and Real Estate reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR SMALL EMPLOYERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivisions (3) and (4) of section 38a-564 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2010*):

4 (3) "Eligible employee" means an employee who works [on a full-
5 time basis, with] a normal work week of [thirty] twenty or more hours
6 and includes a sole proprietor, a partner of a partnership or an
7 independent contractor, provided such sole proprietor, partner or
8 contractor is included as an employee under a health care plan of a
9 small employer but does not include an employee who works on a
10 [part-time] seasonal, temporary or substitute basis. "Eligible employee"
11 shall include any employee who is not actively at work but is covered
12 under the small employer's health insurance plan pursuant to workers'
13 compensation, continuation of benefits pursuant to federal extension

14 requirements established by the Consolidated Omnibus Budget
15 Reconciliation Act of 1985 [(P.L. 99-272)] P.L. 99-272, as amended from
16 time to time, [(COBRA)] or other applicable laws. [Such employees
17 shall not be counted as eligible employees for the purposes of
18 subsection (4) of this section.]

19 (4) (A) "Small employer" means any person, firm, corporation,
20 limited liability company, partnership or association actively engaged
21 in business or self-employed for at least three consecutive months
22 who, on at least fifty per cent of its working days during the preceding
23 twelve months, employed no more than fifty eligible employees, the
24 majority of whom were employed within the state of Connecticut.
25 "Small employer" includes a self-employed individual. [In] For the
26 purposes of determining the number of eligible employees [,
27 companies which] under this subdivision: (i) Companies that are
28 affiliated companies, as defined in section 33-840, or [which] that are
29 eligible to file a combined tax return for purposes of taxation under
30 chapter 208 shall be considered one employer; [. Eligible employees
31 shall not include] (ii) employees covered through the employer by
32 health insurance plans or insurance arrangements issued to or in
33 accordance with a trust established pursuant to collective bargaining
34 subject to the federal Labor Management Relations Act shall not be
35 counted; (iii) employees who are not actively at work but are covered
36 under the small employer's health insurance plan pursuant to workers'
37 compensation, continuation of benefits pursuant to federal extension
38 requirements established by the Consolidated Omnibus Budget
39 Reconciliation Act of 1985, P.L. 99-272, as amended from time to time,
40 or other applicable laws shall not be counted; and (iv) employees who
41 work a normal work week of less than thirty hours shall not be
42 counted. Except as otherwise specifically provided, provisions of
43 sections 12-201, 12-211, 12-212a and 38a-564 to 38a-572, inclusive, that
44 apply to a small employer shall continue to apply until the plan
45 anniversary following the date the employer no longer meets the
46 requirements of this definition.

47 (B) "Small employer" does not include (i) a municipality procuring

48 health insurance pursuant to section 5-259, (ii) a private school in this
49 state procuring health insurance through a health insurance plan or an
50 insurance arrangement sponsored by an association of such private
51 schools, (iii) a nonprofit organization procuring health insurance
52 pursuant to section 5-259, unless the Secretary of the Office of Policy
53 and Management and the State Comptroller make a request in writing
54 to the Insurance Commissioner that such nonprofit organization be
55 deemed a small employer for the purposes of this chapter, (iv) an
56 association for personal care assistants procuring health insurance
57 pursuant to section 5-259, or (v) a community action agency procuring
58 health insurance pursuant to section 5-259.

59 Sec. 2. Subdivision (1) of section 38a-567 of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective*
61 *January 1, 2010*):

62 (1) (A) (i) Any such insurer or producer marketing such plans or
63 arrangements shall offer premium quotes to small employers for
64 coverage for employees who work a normal work week of thirty or
65 more hours. Upon request by a small employer, such insurer or
66 producer shall offer premium quotes for coverage for employees that
67 include those who work a normal work week of at least twenty hours.

68 (ii) No small employer that has requested premium quotes for
69 coverage for employees that include those who work a normal work
70 week of less than thirty hours shall be required to accept such quotes
71 or coverage in lieu of premium quotes or coverage for only those
72 employees who work a normal work week of thirty or more hours.

73 (iii) Nothing in this subparagraph shall require a small employer
74 that offers coverage to its employees who work a normal work week of
75 thirty hours or more to offer coverage to its employees who work a
76 normal work week of less than thirty hours.

77 (B) Any such plan or arrangement shall be renewable with respect
78 to all eligible employees or dependents at the option of the small
79 employer, policyholder or contractholder, as the case may be, except:

80 (i) For nonpayment of the required premiums by the small employer,
81 policyholder or contractholder; (ii) for fraud or misrepresentation of
82 the small employer, policyholder or contractholder or, with respect to
83 coverage of individual insured, the insureds or their representatives;
84 (iii) for noncompliance with plan or arrangement provisions; (iv) when
85 the number of insureds covered under the plan or arrangement is less
86 than the number of insureds or percentage of insureds required by
87 participation requirements under the plan or arrangement; or (v) when
88 the small employer, policyholder or contractholder is no longer
89 actively engaged in the business in which it was engaged on the
90 effective date of the plan or arrangement.

91 [(B)] (C) Renewability of coverage may be effected by either
92 continuing in effect a plan or arrangement covering a small employer
93 or by substituting upon renewal for the prior plan or arrangement the
94 plan or arrangement then offered by the carrier that most closely
95 corresponds to the prior plan or arrangement and is available to other
96 small employers. Such substitution shall only be made under
97 conditions approved by the commissioner. A carrier may substitute a
98 plan or arrangement as stated above only if the carrier effects the same
99 substitution upon renewal for all small employers previously covered
100 under the particular plan or arrangement, unless otherwise approved
101 by the commissioner. The substitute plan or arrangement shall be
102 subject to the rating restrictions specified in this section on the same
103 basis as if no substitution had occurred, except for an adjustment
104 based on coverage differences.

105 [(C)] (D) Notwithstanding the provisions of this subdivision, any
106 such plan or arrangement, or any coverage provided under such plan
107 or arrangement may be rescinded for fraud, material
108 misrepresentation or concealment by an applicant, employee,
109 dependent or small employer.

110 [(D)] (E) Any individual who was not a late enrollee at the time of
111 his or her enrollment and whose coverage is subsequently rescinded
112 shall be allowed to reenroll as of a current date in such plan or

113 arrangement subject to any preexisting condition or other provisions
 114 applicable to new enrollees without previous coverage. On and after
 115 the effective date of such individual's reenrollment, the small employer
 116 carrier may modify the premium rates charged to the small employer
 117 for the balance of the current rating period and for future rating
 118 periods, to the level determined by the carrier as applicable under the
 119 carrier's established rating practices had full, accurate and timely
 120 underwriting information been supplied when such individual
 121 initially enrolled in the plan. The increase in premium rates allowed by
 122 this provision for the balance of the current rating period shall not
 123 exceed twenty-five per cent of the small employer's current premium
 124 rates. Any such increase for the balance of said current rating period
 125 shall not be subject to the rate limitation specified in subdivision (6) of
 126 this section. The rate limitation specified in this section shall otherwise
 127 be fully applicable for the current and future rating periods. The
 128 modification of premium rates allowed by this subdivision shall cease
 129 to be permitted for all plans and arrangements on the first rating
 130 period commencing on or after July 1, 1995.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2010	38a-564(3) and (4)
Sec. 2	January 1, 2010	38a-567(1)

Statement of Legislative Commissioners:

In lines 15 and 39, the parentheses were deleted for statutory consistency.

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill makes changes to statutory provisions related to small employer health insurance plans and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6277*****AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR SMALL EMPLOYERS.*****SUMMARY:**

This bill changes the definition of “eligible employee” and “small employer” for the purpose of certain insurance statutes relating to small employer health insurance plans. By doing so, it broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the laws by excluding seasonal employees. It prohibits an employer from counting as an eligible employee, for the purposes of determining if the employer is a small employer, a person working fewer than 30 hours a week.

The bill requires an insurer or producer marketing small employer group health insurance plans to offer a premium quote to a small employer for employees working at least 30 hours a week (presumably upon a small employer’s request for such a quote). It also requires an insurer or producer to offer, upon a small employer’s request, a quote for employees working at least 20 hours a week. (These provisions apply to employees generally, and not to “eligible employees” as defined. Thus, it appears the quotes must take into consideration employees who work the required hours, regardless of their status (e.g., full-time, part-time, seasonal, temporary, substitute).

The bill specifies that a small employer that requests a quote for employees working fewer than 30 hours a week is not required to accept the quote or purchase coverage for those employees or employees working 30 or more hours a week. It also specifies that a small employer that offers coverage to employees working at least 30 hours a week is not required to offer coverage to those working fewer

than 30 hours a week.

EFFECTIVE DATE: January 1, 2010

ELIGIBLE EMPLOYEE

The bill redefines “eligible employee” as an employee working a normal work week of at least 20 hours a week, including a part-time employee, but excluding a seasonal employee. Current law includes only full-time employees working at least 30 hours a week.

By law, and unchanged by the bill, eligible employee (1) excludes a temporary or substitute employee; (2) includes a sole proprietor, a partner, or an independent contractor, provided he or she is included as an employee under a small employer’s health care plan; and (3) includes a person not actively at work but covered under the employer’s health insurance plan through workers’ compensation, continuation of benefits requirements (e.g., COBRA), or other applicable law.

The bill, therefore, broadens the scope of certain laws by including part-time employees working at least 20 hours a week and limits the laws by excluding seasonal employees. Those laws include guaranteed renewability, coverage eligibility requirements, the Connecticut Small Employer Health Reinsurance Pool, and special health care plans (see BACKGROUND).

Additionally, the law lets a health care center (i.e., HMO) refuse coverage to a small employer if the HMO’s provider network is proven, to the insurance commissioner’s satisfaction, inadequate to serve the small employer due to the HMO’s obligations to existing customers. If an HMO refuses coverage for this reason, the law prohibits the HMO from offering coverage, for 90 days from the refusal, to a new employer group with more than 25 eligible employees (CGS § 38a-568(c)).

SMALL EMPLOYER

By law, a “small employer” is any person, firm, corporation, limited

liability company, partnership, or association that:

1. is actively engaged in business or self-employed for at least three consecutive months and
2. on at least 50% of its working days during the preceding 12 months, employed no more than 50 “eligible employees,” the majority of whom were employed within Connecticut.

The bill changes how an employer counts its employees to determine if it is a small employer for purposes of laws applying to small employer insurance plans. Specifically, it prohibits an employer from counting a person who works fewer than 30 hours a week.

By law, and unchanged by the bill, when counting eligible employees to determine if an employer is a small employer, companies affiliated or eligible to file a combined tax return are considered one employer. And an employer cannot count an employee:

1. covered through the employer by a health insurance plan issued to, or in accordance with, a trust established under collective bargaining, or
2. not actively at work but covered under the employer’s health insurance plan under workers’ compensation, federal continuation of benefits requirements, or other applicable laws.

The law specifies that a “small employer” does not include a:

1. municipality, association of personal care assistants, or community action agency purchasing health insurance through the Municipal Employee Health Insurance Program (MEHIP);
2. nonprofit organization purchasing health insurance through MEHIP, unless the secretary of the Office of Policy and Management and the state comptroller ask the insurance commissioner in writing to deem the organization a small employer for the purposes of the health insurance statutes; or

3. private school in Connecticut obtaining health insurance through a health insurance plan or an insurance arrangement that an association of private schools sponsors.

BACKGROUND

Guaranteed Renewable Coverage

By law, a health insurance plan issued to a small employer is “guaranteed renewable” with respect to eligible employees and their dependents. This means that coverage for the eligible employees and their dependents is renewable at the small employer's option, with some exceptions (e.g., not paying premiums, fraud, material misrepresentation, and not meeting the insurer's participation rate required for coverage) (CGS 38a-567)(1)).

Coverage Eligibility

Except for a late enrollee who failed to provide evidence of insurability satisfactory to the insurer, a health insurance plan may not exclude an eligible employee or dependent based on an actual or expected health condition. And it may not exclude an eligible employee or dependent who, on the day before the initial effective date of the plan, was covered under the small employer's previous health insurance plan through workers' compensation, COBRA, or other applicable laws as long as the employee or dependent requests coverage under the new plan on a timely basis (CGS § 38a-567(2)).

Connecticut Small Employer Health Reinsurance Pool

By law, all health insurers must be members of the Connecticut Small Employer Health Reinsurance Pool (CSEHRP). Members may purchase reinsurance coverage for an entire small group or for certain eligible employees or dependents in a group, generally those the insurer believes are high risk (i.e., likely to have high claim costs) (CGS § 38a-569).

Special Health Care Plans for Small Employers

A “special health care plan” is a health insurance plan for previously uninsured small employers. The law requires the CSEHRP

board of directors to develop these plans as a lower-cost health insurance coverage option for uninsured small employers and submit them to the insurance commissioner for approval (CGS 38a-565(a)(1)).

A small employer can purchase a special health care plan if it did not maintain health insurance coverage for its employees at any time during the one-year period before applying for the plan. A small employer cannot purchase a special health care plan for more than three years (CGS § 38a-565(2)).

The law permits the Health Reinsurance Association (HRA) to issue special health care plans to small employers with 10 or fewer eligible employees, the majority of whom are low-income eligible employees (CGS § 38a-570).

By law, all Connecticut health insurers and HMOs are (1) HRA members and (2) assessed for HRA's losses. HRA is Connecticut's insurer of last resort for high-risk individuals (i.e., the high-risk pool). It also serves as the state's acceptable alternative mechanism for complying with the guaranteed issue option in the individual market required under federal law.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (02/19/2009)