



Senate

General Assembly

File No. 463

January Session, 2023

Substitute Senate Bill No. 228

Senate, April 6, 2023

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING EMPLOYEES' LOSS OF HEALTH CARE COVERAGE AS A RESULT OF A LABOR DISPUTE.

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

1 Section 1. Section 38a-1084 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 The exchange shall:

4 (1) Administer the exchange for both qualified individuals and
5 qualified employers;

6 (2) Commission surveys of individuals, small employers and health
7 care providers on issues related to health care and health care coverage;

8 (3) Implement procedures for the certification, recertification and
9 decertification, consistent with guidelines developed by the Secretary
10 under Section 1311(c) of the Affordable Care Act, and section 38a-1086,
11 of health benefit plans as qualified health plans;

12 (4) Provide for the operation of a toll-free telephone hotline to
13 respond to requests for assistance;

14 (5) Provide for enrollment periods, as provided under Section
15 1311(c)(6) of the Affordable Care Act;

16 (6) Maintain an Internet web site through which enrollees and
17 prospective enrollees of qualified health plans may obtain standardized
18 comparative information on such plans including, but not limited to, the
19 enrollee satisfaction survey information under Section 1311(c)(4) of the
20 Affordable Care Act and any other information or tools to assist
21 enrollees and prospective enrollees evaluate qualified health plans
22 offered through the exchange;

23 (7) Publish the average costs of licensing, regulatory fees and any
24 other payments required by the exchange and the administrative costs
25 of the exchange, including information on moneys lost to waste, fraud
26 and abuse, on an Internet web site to educate individuals on such costs;

27 (8) On or before the open enrollment period for plan year 2017, assign
28 a rating to each qualified health plan offered through the exchange in
29 accordance with the criteria developed by the Secretary under Section
30 1311(c)(3) of the Affordable Care Act, and determine each qualified
31 health plan's level of coverage in accordance with regulations issued by
32 the Secretary under Section 1302(d)(2)(A) of the Affordable Care Act;

33 (9) Use a standardized format for presenting health benefit options in
34 the exchange, including the use of the uniform outline of coverage
35 established under Section 2715 of the Public Health Service Act, 42 USC
36 300gg-15, as amended from time to time;

37 (10) Inform individuals, in accordance with Section 1413 of the
38 Affordable Care Act, of eligibility requirements for the Medicaid
39 program under Title XIX of the Social Security Act, as amended from
40 time to time, the Children's Health Insurance Program (CHIP) under
41 Title XXI of the Social Security Act, as amended from time to time, or
42 any applicable state or local public program, and enroll an individual in

43 such program if the exchange determines, through screening of the
44 application by the exchange, that such individual is eligible for any such
45 program;

46 (11) Collaborate with the Department of Social Services, to the extent
47 possible, to allow an enrollee who loses premium tax credit eligibility
48 under Section 36B of the Internal Revenue Code and is eligible for
49 HUSKY A or any other state or local public program, to remain enrolled
50 in a qualified health plan;

51 (12) Establish and make available by electronic means a calculator to
52 determine the actual cost of coverage after application of any premium
53 tax credit under Section 36B of the Internal Revenue Code and any cost-
54 sharing reduction under Section 1402 of the Affordable Care Act;

55 (13) Establish a program for small employers through which
56 qualified employers may access coverage for their employees and that
57 shall enable any qualified employer to specify a level of coverage so that
58 any of its employees may enroll in any qualified health plan offered
59 through the exchange at the specified level of coverage;

60 (14) Offer enrollees and small employers the option of having the
61 exchange collect and administer premiums, including through
62 allocation of premiums among the various insurers and qualified health
63 plans chosen by individual employers;

64 (15) Grant a certification, subject to Section 1411 of the Affordable
65 Care Act, attesting that, for purposes of the individual responsibility
66 penalty under Section 5000A of the Internal Revenue Code, an
67 individual is exempt from the individual responsibility requirement or
68 from the penalty imposed by said Section 5000A because:

69 (A) There is no affordable qualified health plan available through the
70 exchange, or the individual's employer, covering the individual; or

71 (B) The individual meets the requirements for any other such
72 exemption from the individual responsibility requirement or penalty;

73 (16) Provide to the Secretary of the Treasury of the United States the
74 following:

75 (A) A list of the individuals granted a certification under subdivision
76 (15) of this section, including the name and taxpayer identification
77 number of each individual;

78 (B) The name and taxpayer identification number of each individual
79 who was an employee of an employer but who was determined to be
80 eligible for the premium tax credit under Section 36B of the Internal
81 Revenue Code because:

82 (i) The employer did not provide minimum essential health benefits
83 coverage; or

84 (ii) The employer provided the minimum essential coverage but it
85 was determined under Section 36B(c)(2)(C) of the Internal Revenue
86 Code to be unaffordable to the employee or not provide the required
87 minimum actuarial value; and

88 (C) The name and taxpayer identification number of:

89 (i) Each individual who notifies the exchange under Section
90 1411(b)(4) of the Affordable Care Act that such individual has changed
91 employers; and

92 (ii) Each individual who ceases coverage under a qualified health
93 plan during a plan year and the effective date of that cessation;

94 (17) Provide to each employer the name of each employee, as
95 described in subparagraph (B) of subdivision (16) of this section, of the
96 employer who ceases coverage under a qualified health plan during a
97 plan year and the effective date of the cessation;

98 (18) Perform duties required of, or delegated to, the exchange by the
99 Secretary or the Secretary of the Treasury of the United States related to
100 determining eligibility for premium tax credits, reduced cost-sharing or
101 individual responsibility requirement exemptions;

102 (19) Select entities qualified to serve as Navigators in accordance with
103 Section 1311(i) of the Affordable Care Act and award grants to enable
104 Navigators to:

105 (A) Conduct public education activities to raise awareness of the
106 availability of qualified health plans;

107 (B) Distribute fair and impartial information concerning enrollment
108 in qualified health plans and the availability of premium tax credits
109 under Section 36B of the Internal Revenue Code and cost-sharing
110 reductions under Section 1402 of the Affordable Care Act;

111 (C) Facilitate enrollment in qualified health plans;

112 (D) Provide referrals to the Office of the Healthcare Advocate or
113 health insurance ombudsman established under Section 2793 of the
114 Public Health Service Act, 42 USC 300gg-93, as amended from time to
115 time, or any other appropriate state agency or agencies, for any enrollee
116 with a grievance, complaint or question regarding the enrollee's health
117 benefit plan, coverage or a determination under that plan or coverage;
118 and

119 (E) Provide information in a manner that is culturally and
120 linguistically appropriate to the needs of the population being served by
121 the exchange;

122 (20) Review the rate of premium growth within and outside the
123 exchange and consider such information in developing
124 recommendations on whether to continue limiting qualified employer
125 status to small employers;

126 (21) Credit the amount, in accordance with Section 10108 of the
127 Affordable Care Act, of any free choice voucher to the monthly
128 premium of the plan in which a qualified employee is enrolled and
129 collect the amount credited from the offering employer;

130 (22) Consult with stakeholders relevant to carrying out the activities
131 required under sections 38a-1080 to 38a-1090, inclusive, including, but

132 not limited to:

133 (A) Individuals who are knowledgeable about the health care system,
134 have background or experience in making informed decisions regarding
135 health, medical and scientific matters and are enrollees in qualified
136 health plans;

137 (B) Individuals and entities with experience in facilitating enrollment
138 in qualified health plans;

139 (C) Representatives of small employers and self-employed
140 individuals;

141 (D) The Department of Social Services; and

142 (E) Advocates for enrolling hard-to-reach populations;

143 (23) Meet the following financial integrity requirements:

144 (A) Keep an accurate accounting of all activities, receipts and
145 expenditures and annually submit to the Secretary, the Governor, the
146 Insurance Commissioner and the General Assembly a report concerning
147 such accountings;

148 (B) Fully cooperate with any investigation conducted by the Secretary
149 pursuant to the Secretary's authority under the Affordable Care Act and
150 allow the Secretary, in coordination with the Inspector General of the
151 United States Department of Health and Human Services, to:

152 (i) Investigate the affairs of the exchange;

153 (ii) Examine the properties and records of the exchange; and

154 (iii) Require periodic reports in relation to the activities undertaken
155 by the exchange; and

156 (C) Not use any funds in carrying out its activities under sections 38a-
157 1080 to 38a-1089, inclusive, that are intended for the administrative and
158 operational expenses of the exchange, for staff retreats, promotional

159 giveaways, excessive executive compensation or promotion of federal
160 or state legislative and regulatory modifications;

161 (24) (A) Seek to include the most comprehensive health benefit plans
162 that offer high quality benefits at the most affordable price in the
163 exchange, (B) encourage health carriers to offer tiered health care
164 provider network plans that have different cost-sharing rates for
165 different health care provider tiers and reward enrollees for choosing
166 low-cost, high-quality health care providers by offering lower
167 copayments, deductibles or other out-of-pocket expenses, and (C) offer
168 any such tiered health care provider network plans through the
169 exchange;

170 (25) Report at least annually to the General Assembly on the effect of
171 adverse selection on the operations of the exchange and make legislative
172 recommendations, if necessary, to reduce the negative impact from any
173 such adverse selection on the sustainability of the exchange, including
174 recommendations to ensure that regulation of insurers and health
175 benefit plans are similar for qualified health plans offered through the
176 exchange and health benefit plans offered outside the exchange. The
177 exchange shall evaluate whether adverse selection is occurring with
178 respect to health benefit plans that are grandfathered under the
179 Affordable Care Act, self-insured plans, plans sold through the
180 exchange and plans sold outside the exchange; [and]

181 (26) Consult with the Commissioner of Social Services, Insurance
182 Commissioner and Office of Health Strategy, established under section
183 19a-754a for the purposes set forth in section 19a-754c; and

184 (27) Provide for a special enrollment period for individuals whose
185 health care coverage is terminated by an employer as a result of a labor
186 dispute.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	38a-1084

Statement of Legislative Commissioners:

In Section 1(27) "who lose health benefits provided by an employer" was changed to "whose health care coverage is terminated by an employer" for consistency with standard drafting conventions.

LAB *Joint Favorable Subst. -LCO*

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

The bill has no fiscal impact as it does not require any additional action by the Connecticut Health Insurance Exchange ("exchange").

The bill requires the exchange to provide special enrollment periods for individuals whose health care coverage is terminated by an employer as a result of a labor dispute. The exchange already provides for special enrollment periods for various reasons as required by the federal Affordable Care Act (ACA), including for people who lose employer-sponsored health insurance.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Access Health CT, "Help With Your Verifications: Qualifying Life Event for Special Enrollment"

OLR Bill Analysis**sSB 228*****AN ACT CONCERNING EMPLOYEES' LOSS OF HEALTH CARE COVERAGE AS A RESULT OF A LABOR DISPUTE.*****SUMMARY**

This bill explicitly requires Connecticut's health insurance exchange (i.e., Access Health CT) to have a special enrollment period for people whose employer-sponsored health benefits are terminated by an employer because of a labor dispute. (Although the bill does not define labor dispute, presumably, it includes lockouts and strikes.)

Under current law, the exchange must already have enrollment periods that are required under the federal Affordable Care Act (ACA). The ACA requires special enrollment periods for many reasons, including when an employee loses employer-sponsored health insurance. Special enrollment periods allow enrollment in a plan outside of the annual open enrollment period.

EFFECTIVE DATE: October 1, 2023

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 12 Nay 0 (03/21/2023)