



2017 ASSEMBLY BILL 920

February 7, 2018 - Introduced by Representatives ZIMMERMAN, SANFELIPPO, KOYENGA, OTT, DUCHOW, LOUDENBECK, KULP, FELZKOWSKI, QUINN and HUTTON, cosponsored by Senators STROEBEL and TIFFANY. Referred to Committee on Health.

- 1 **AN ACT to create** 146.79, 600.01 (1) (b) 13. and 601.415 (14) of the statutes;
2 **relating to:** employer groups for self-funded health care coverage.

Analysis by the Legislative Reference Bureau

This bill allows the establishment of employer groups to jointly provide health care benefits on a self-funded basis to the employers' eligible employees and their dependents under a health care benefit arrangement. Two or more employers that are members of the same chamber of commerce or industry-based association may form an employer group. Employer groups that provide evidence to the commissioner of insurance that they have formed and are able to comply with the requirements in the bill qualify to participate in the self-funded health benefits project.

Each employer group in the project must, among other requirements, do all of the following: determine all matters necessary for administration and operation of the employee health care benefit arrangement; determine, based on an actuary's recommendations, the amount that each employer must contribute for the health care benefit arrangement, administrative expenses, and excess or stop-loss coverage; establish a minimum participation period of no less than three years for an employer to participate unless the employer meets special circumstances established by the employer group; and report annually to the commissioner of insurance on the stability of the group and its finances. The employer group may specify minimum participation requirements that employers must meet to participate, but must, with certain exceptions, allow any employer that is a member of the same chamber of commerce or industry-based association and agrees to comply with those

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requirements to participate. If an employer does not pay the required contribution, the employer group must terminate the participation of the employer. If an employer terminates participation in an employer group voluntarily or involuntarily, the employer is responsible for contribution amounts required during the employer's participation and the employer's proportionate share of the cost of claims payable before the termination.

Each employer group in the project must require each of its participating employers to offer a similar level of health care benefits to all eligible employees and dependents.

Each employer group in the program is required to pay no more than \$50,000 in benefits for each covered individual in a calendar year, unless an independent actuary confirms the employer group is financially capable of paying more. The employer group is required to obtain excess or stop-loss coverage in an amount sufficient to pay the excess amount of claims.

The bill specifies that the employer group is not considered an insurer, and the health care benefit arrangement is not considered an insurance contract, for any purpose. The insurance statutes do not apply to an employer group or a health care benefit arrangement.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.79 of the statutes is created to read:

2 146.79 **Employer group self-funded health benefits project.** (1)

3 DEFINITION. In this section, "eligible employee" means an employee who works on a
4 permanent basis and has a normal work week of 30 or more hours and includes all
5 of the following, if included as an employee under the health care benefit
6 arrangement under this section:

7 (a) A sole proprietor.

8 (b) A business owner, including the owner of a farm business.

9 (c) A partner of a partnership.

10 (d) A member of a limited liability company or a corporation defined under 26

11 USC 1361 (a) (1).

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1 **(2) EMPLOYER GROUPS; QUALIFICATION.** (a) Two or more employers that are
2 members of the same chamber of commerce or industry-based association may form
3 an employer group to establish and administer an employee health care benefit
4 arrangement to jointly provide health care benefits on a self-funded basis to eligible
5 employees of employers in the group and the dependents of those eligible employees.

6 (b) Employer groups that provide evidence to the commissioner of insurance
7 that they have formed and are able to comply with the requirements of this section
8 qualify to participate in the project under this section. When employer groups have
9 qualified under this paragraph, the commissioner of insurance shall submit a notice
10 to the legislative reference bureau for publication in the Wisconsin Administrative
11 Register that lists the employer groups that have qualified and the date on which
12 each group provided the necessary evidence of compliance.

13 **(3) EMPLOYER GROUP DUTIES AND POWERS.** (a) Each employer group qualified
14 under sub. (2) (b) shall do all of the following:

15 1. Determine all matters necessary for the administration and operation of its
16 employee health care benefit arrangement.

17 2. Designate an agent for service of process, notice, or demand.

18 3. Define who is a dependent for purposes of coverage under its employee health
19 care benefit arrangement.

20 4. Employ or contract with an actuary to make recommendations, in
21 accordance with generally accepted actuarial principles, as to the sufficient amount
22 of funding for the employee health care benefit arrangement. The employer group
23 satisfies the requirement under this subdivision if the employer group contracts with
24 an insurer or a 3rd-party administrator that employs an actuary.

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1 5. Determine, based on the actuary's recommendations under subd. 4., the
2 amount that each employer that is participating in the employer group shall
3 contribute to self-fund the employee health care benefit arrangement; to pay
4 administrative expenses, including the actuary's compensation; and to purchase
5 excess or stop-loss coverage, as described under sub. (5) (b). The contribution
6 amount under this subdivision may vary by employer based on criteria developed by
7 the employer group. An employer group may require employers in the employer
8 group to contribute payments for establishing a surplus fund and may levy an
9 assessment whenever the amount of any loss or expense that is due exceeds the
10 assets of the employer group or the surplus fund amount established by the employer
11 group is impaired.

12 6. Establish a minimum participation period for an employer's participation in
13 the employer group, which shall be the same length for each employer participating
14 in the employer group and may not be less than 3 years. An employer group may
15 specify circumstances under which a participating employer may discontinue
16 participation in the employer group before the minimum participation period
17 established under this subdivision ends without forfeiting all or a portion of the
18 amount paid by the employer under sub. (4) (a) 2.

19 7. Annually submit a report to the commissioner of insurance describing the
20 stability of the employer group and the finances of the employer group.

21 (b) An employer group qualified under sub. (2) (b) may specify minimum
22 participation requirements that an employer is required to satisfy to participate in
23 the employer group. Except as provided under sub. (4) (b), an employer group
24 qualified under sub. (2) (b) shall allow any employer that is a member of the same
25 chamber of commerce or industry-based association as the other group members and

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1 that agrees to comply with the participation requirements specified under this
2 paragraph to participate in the employer group.

3 (c) If an employer group qualified under sub. (2) (b) seeks to contract with a
4 3rd-party administrator to administer any part of the health care benefit
5 arrangement, the employer group shall contract with a 3rd-party administrator that
6 is registered to do business in this state. A contract between an employer group and
7 a 3rd-party administrator that relates to the administration of the payment of
8 claims shall specify terms for the resolution of claims upon termination of the
9 contract with that 3rd-party administrator.

10 **(4) EMPLOYER REQUIREMENTS.** (a) An employer group qualified under sub. (2)
11 (b) shall require each of its participating employers to do all of the following:

12 1. Offer a similar level of health care benefits to all of the employer's eligible
13 employees and all of the eligible employee's dependents, as defined under sub. (3) (a)
14 3.

15 2. Participate for at least the minimum participation period specified by the
16 employer group under sub. (3) (a) 6. An employer group may require employers that
17 desire to participate in the employer group to pay an amount that is forfeited to the
18 employer group if the employer's participation terminates voluntarily or
19 involuntarily before the employer's minimum participation period ends.

20 (b) Subject to any policy created by the employer group regarding late
21 payments, an employer group qualified under sub. (2) (b) shall terminate an
22 employer's participation in the employer group if the employer fails to pay a
23 contribution required by the employer group under sub. (3) (a) 5.

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1 (c) An employer group qualified under sub. (2) (b) shall hold an employer whose
2 participation in the employer group terminates voluntarily or involuntarily
3 responsible for all of the following:

4 1. Any contribution amounts required during the employer's period of
5 participation.

6 2. The employer's proportionate share of the cost of any claims payable by the
7 employer group that were incurred before the termination of the employer's
8 participation.

9 **(5) COVERED BENEFITS; PAYMENT OF CLAIMS.** (a) An employer group may provide
10 a choice of health care benefit plans but shall offer a similar level of health care
11 benefits to all employees and dependents of each employer that participates in the
12 employer group.

13 (b) An employer group qualified under sub. (2) (b) shall pay no more than
14 \$50,000 in benefits on a self-funded basis incurred in a calendar year for each
15 individual covered under its employee health care benefit arrangement, unless the
16 employer group is financially capable of paying more than \$50,000 in benefits per
17 individual per calendar year as confirmed by an independent actuary. Each
18 employer group shall obtain excess or stop-loss coverage through an insurer
19 authorized to do business in this state in an amount that is sufficient to pay claims
20 that exceed the amount that the employer group will pay on a self-funded basis.

21 (c) If an employer group qualified under sub. (2) (b) ceases operating its
22 employee health care benefit arrangement, the employer group is responsible for
23 paying eligible claims incurred during the time in which the employee health benefit
24 arrangement was operating.

