

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 158

SENATE BILL 1204

AN ACT

AMENDING SECTIONS 20-1401 AND 20-2301, ARIZONA REVISED STATUTES; RELATING TO
GROUP DISABILITY INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1401, Arizona Revised Statutes, is amended to
3 read:

4 20-1401. Eligible groups

5 A. Group disability insurance is that form of disability insurance
6 covering groups of persons as defined below, with or without one or more
7 members of their families or one or more of their dependents, or covering one
8 or more members of the families or one or more dependents of persons in such
9 groups, and issued upon the following basis:

10 1. Under a policy issued to an employer or trustees of a fund
11 established by an employer, who shall be deemed the policyholder, insuring at
12 least five TWO employees of the employer, for the benefit of persons other
13 than the employer. The term "employees" as used herein shall be deemed to
14 include the officers, managers and employees of the employer, the individual
15 proprietor or partners if the employer is an individual proprietor or
16 partnership, the officers, managers and employees of subsidiary or affiliated
17 corporations, the individual proprietors, partners and employees of
18 individuals and firms, if the business of the employer and such individual or
19 firm is under common control through stock ownership, contract or otherwise.
20 The term "employees" as used herein shall be deemed to include retired
21 employees. A policy issued to insure employees of a public body may provide
22 that the term "employees" shall include elected or appointed officials.

23 2. Under a policy issued to an association, including a labor union,
24 which shall have a constitution and bylaws and which has been organized and
25 is maintained in good faith for purposes other than that of obtaining
26 insurance, insuring at least twenty-five members, employees or employees of
27 members of the association for the benefit of persons other than the
28 association or its officers or trustees. The term "employees" as used herein
29 shall be deemed to include retired employees.

30 3. Under a policy issued to the trustees of a fund established by two
31 or more employers in the same industry or by one or more labor unions or by
32 one or more employers and one or more labor unions, which trustees shall be
33 deemed the policyholder, to insure employees of the employers or members of
34 the unions for the benefit of persons other than the employers or the unions.
35 The term "employees" as used herein shall be deemed to include the officers,
36 managers and employees of the employer, and the individual proprietor or
37 partners if the employer is an individual proprietor or partnership. The
38 term "employees" as used herein shall be deemed to include retired employees.
39 The policy may provide that the term "employees" shall include the trustees
40 or their employees, or both, if their duties are principally connected with
41 such trusteeship.

42 4. Under a policy issued to any persons or organizations to which a
43 policy of group life insurance may be delivered in this state, to insure any
44 class or classes of individuals that could be insured under such group life
45 policy.

1 5. Under a policy issued to cover any other substantially similar
2 group which, in the discretion of the director, may be subject to the
3 issuance of a group disability policy or contract.

4 B. Nothing in this article validates any charge or practice illegal
5 under any rule of law or regulation governing usury, consumer lender loans,
6 retail installment sales or the like, or extends the application of any such
7 rule of law or regulation to any transaction not otherwise subject thereto.

8 Sec. 2. Section 20-2301, Arizona Revised Statutes, is amended to read:
9 20-2301. Definitions; late enrollee coverage

10 A. In this chapter, unless the context otherwise requires:

11 1. "Accountable health plan" means an entity that offers, issues or
12 otherwise provides a health benefits plan and is approved by the director as
13 an accountable health plan pursuant to section 20-2303.

14 2. "Affiliation period" means a period of two months, or three months
15 for late enrollees, that under the terms of the health benefits plan offered
16 by a health care services organization must expire before the health benefits
17 plan becomes effective and in which the health care services organization is
18 not required to provide health care services or benefits and cannot charge
19 the participant or beneficiary a premium for any coverage during the period.

20 3. "Base premium rate" means, for each rating period, the lowest
21 premium rate that could have been charged under a rating system by the
22 accountable health plan to small employers for health benefits plans
23 involving the same or similar coverage, family size and composition, and
24 geographic area.

25 4. "Basic health benefit plan" means a plan that is developed by a
26 committee established by the legislature and that is adopted by the director.

27 5. "Bona fide association" means, for a health benefits plan issued by
28 an accountable health plan, an association that meets the requirements of
29 section 20-2324.

30 6. "COBRA continuation provision" means:

31 (a) Section 4980B, except subsection (f)(1) as it relates to pediatric
32 vaccines, of the internal revenue code of 1986.

33 (b) Title I, subtitle B, part 6, except section 609, of the employee
34 retirement income security act of 1974 (P.L. 93-406; 88 Stat. 829; 29 United
35 States Code sections 1001 through 1461).

36 (c) Title XXII of the public health service act.

37 (d) Any similar provision of the law of this state or any other state.

38 7. "Creditable coverage" means coverage solely for an individual,
39 other than limited benefits coverage, under any of the following:

40 (a) An employee welfare benefit plan that provides medical care to
41 employees or the employees' dependents directly or through insurance,
42 reimbursement or otherwise pursuant to the employee retirement income
43 security act of 1974.

44 (b) A church plan as defined in the employee retirement income
45 security act of 1974.

1 (c) A health benefits plan issued by an accountable health plan as
2 defined in THIS section ~~20-2301~~.

3 (d) Part A or part B of title XVIII of the social security act.

4 (e) Title XIX of the social security act, other than coverage
5 consisting solely of benefits under section 1928.

6 (f) Title 10, chapter 55 of the United States Code.

7 (g) A medical care program of the Indian health service or of a tribal
8 organization.

9 (h) A health benefits risk pool operated by any state of the United
10 States.

11 (i) A health plan offered pursuant to title 5, chapter 89 of the
12 United States Code.

13 (j) A public health plan as defined by federal law.

14 (k) A health benefit plan pursuant to section 5(e) of the peace corps
15 act (P.L. 87-293; 75 Stat. 612; 22 United States Code sections 2501 through
16 2523).

17 (l) A policy or contract, including short-term limited duration
18 insurance, issued on an individual basis by an insurer, a health care
19 services organization, a hospital service corporation, a medical service
20 corporation or a hospital, medical, dental and optometric service corporation
21 or made available to persons defined as eligible under section 36-2901,
22 paragraph 6, subdivisions (b), (c), (d) and (e).

23 (m) A policy or contract issued by a health care insurer or an
24 accountable health plan to a member of a bona fide association.

25 8. "Demographic characteristics" means objective factors an insurer
26 considers in determining premium rates. Demographic characteristics do not
27 include health status-related factors, industry or duration of coverage since
28 issue.

29 9. "Different policy forms" means variations between policy forms
30 offered by a health care insurer, including policy forms that have different
31 cost sharing arrangements or different riders.

32 10. "Genetic information" means information about genes, gene products
33 and inherited characteristics that may derive from the individual or a family
34 member, including information regarding carrier status and information
35 derived from laboratory tests that identify mutations in specific genes or
36 chromosomes, physical medical examinations, family histories and direct
37 analysis of genes or chromosomes.

38 11. "Health benefits plan" means a hospital and medical service
39 corporation policy or certificate, a health care services organization
40 contract, a multiple employer welfare arrangement or any other arrangement
41 under which health services or health benefits are provided to two or more
42 individuals. Health benefits plan does not include the following:

43 (a) Accident only, dental only, vision only, disability income only or
44 long-term care only insurance, fixed or hospital indemnity coverage, limited

1 benefit coverage, specified disease coverage, credit coverage or Taft-Hartley
2 trusts.

3 (b) Coverage that is issued as a supplement to liability insurance.

4 (c) Medicare supplemental insurance.

5 (d) Workers' compensation insurance.

6 (e) Automobile medical payment insurance.

7 12. "Health status-related factor" means any factor in relation to the
8 health of the individual or a dependent of the individual enrolled or to be
9 enrolled in an accountable health plan including:

10 (a) Health status.

11 (b) Medical condition, including physical and mental illness.

12 (c) Claims experience.

13 (d) Receipt of health care.

14 (e) Medical history.

15 (f) Genetic information.

16 (g) Evidence of insurability, including conditions arising out of acts
17 of domestic violence as defined in section 20-448.

18 (h) The existence of a physical or mental disability.

19 13. "Higher level of coverage" means a health benefits plan offered by
20 an accountable health plan for which the actuarial value of the benefits
21 under the coverage is at least fifteen per cent more than the actuarial value
22 of the health benefits plan offered by the accountable health plan as a lower
23 level of coverage in this state but not more than one hundred twenty per cent
24 of a policy form weighted average.

25 14. "Index rate" means, as to a rating period, the arithmetic average
26 of the applicable base premium rate and the highest premium rate that could
27 have been charged under a rating system by the accountable health plan to
28 small employers for a health benefits plan involving the same or similar
29 coverage, family size and composition, and geographic area.

30 15. "Late enrollee" means an employee or dependent who requests
31 enrollment in a health benefits plan after the initial enrollment period that
32 is provided under the terms of the health benefits plan if the initial
33 enrollment period is at least thirty-one days. An employee or dependent
34 shall not be considered a late enrollee if:

35 (a) The person:

36 (i) At the time of the initial enrollment period was covered under a
37 public or private health insurance policy or any other health benefits plan.

38 (ii) Lost coverage under a public or private health insurance policy
39 or any other health benefits plan due to the employee's termination of
40 employment or eligibility, the reduction in the number of hours of
41 employment, the termination of the other plan's coverage, the death of the
42 spouse, legal separation or divorce or the termination of employer
43 contributions toward the coverage.

1 (iii) Requests enrollment within thirty-one days after the termination
2 of creditable coverage that is provided under a public or private health
3 insurance or other health benefits plan.

4 (iv) Requests enrollment within thirty-one days after the date of
5 marriage.

6 (b) The person is employed by an employer that offers multiple health
7 benefits plans and the person elects a different plan during an open
8 enrollment period.

9 (c) A court orders that coverage be provided for a spouse or minor
10 child under a covered employee's health benefits plan and the person requests
11 enrollment within thirty-one days after the court order is issued.

12 (d) The person becomes a dependent of a covered person through
13 marriage, birth, adoption or placement for adoption and requests enrollment
14 no later than thirty-one days after becoming a dependent.

15 16. "Lower level of coverage" means a health benefits plan offered by
16 an accountable health plan for which the actuarial value of the benefits
17 under the health benefits plan is at least eighty-five per cent but not more
18 than one hundred per cent of the policy form weighted average.

19 17. "Network plan" means a health benefits plan provided by an
20 accountable health plan under which the financing and delivery of health
21 benefits are provided, in whole or in part, through a defined set of
22 providers under contract with the accountable health plan in accordance with
23 the determination made by the director pursuant to section 20-1053 regarding
24 the geographic or service area in which an accountable health plan may
25 operate.

26 ~~18. "Participating provider" means a professional or institutional~~
27 ~~health care provider that is employed by or has a written contract with an~~
28 ~~accountable health plan.~~

29 ~~19.~~ 18. "Policy form weighted average" means the average actuarial
30 value of the benefits provided by all health benefits plans issued by either
31 the accountable health plan or, if the data are available, by all accountable
32 health plans in the group market in this state during the previous calendar
33 year, weighted by the enrollment for all coverage forms.

34 ~~20.~~ 19. "Preexisting condition" means a condition, regardless of the
35 cause of the condition, for which medical advice, diagnosis, care or
36 treatment was recommended or received within not more than six months before
37 the date of the enrollment of the individual under a health benefits plan
38 issued by an accountable health plan. A genetic condition is not a
39 preexisting condition in the absence of a diagnosis of the condition related
40 to the genetic information and shall not result in a preexisting condition
41 limitation or preexisting condition exclusion.

42 ~~21.~~ 20. "Preexisting condition limitation" or "preexisting condition
43 exclusion" means a limitation or exclusion of benefits for a preexisting
44 condition under a health benefits plan offered by an accountable health plan.

1 ~~22.~~ 21. "Small employer" means an employer who employs at least two
2 but not more than fifty eligible employees on a typical business day during
3 any one calendar year. "EMPLOYEE" AS USED IN THIS PARAGRAPH SHALL INCLUDE
4 THE EMPLOYEES OF THE EMPLOYER, AND THE INDIVIDUAL PROPRIETOR OR SELF-EMPLOYED
5 PERSON IF THE EMPLOYER IS AN INDIVIDUAL PROPRIETOR OR SELF-EMPLOYED PERSON.

6 ~~23.~~ 22. "Taft-Hartley trust" means a jointly-managed trust, as allowed
7 by 29 United States Code sections 141 through 187, that contains a plan of
8 benefits for employees and that is negotiated in a collective bargaining
9 agreement governing the wages, hours and working conditions of the employees,
10 as allowed by 29 United States Code section 157.

11 ~~24.~~ 23. "Waiting period" means the period that must pass before a
12 potential participant or beneficiary in a health benefits plan offered by an
13 accountable health plan is eligible to be covered for benefits as determined
14 by the individual's employer.

15 B. Coverage for a late enrollee begins on the date the person becomes
16 a dependent if a request for enrollment is received within thirty-one days
17 after the person becomes a dependent.

APPROVED BY THE GOVERNOR MAY 1, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2007.

Passed the House April 17, 20 07,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 12, 20 07,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1204

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 26, 2007

by the following vote: 26 Ayes,

1 Nays, 3 Not Voting

Timothy S. Bee
President of the Senate

Charmain Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

26th day of April, 2007

at 11:30 o'clock a. M.

Wennifer Ibarra
Secretary to the Governor

Approved this 1 day of

May 2007

at 1:45 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 1ST day of MAY, 2007

at 4:30 o'clock P. M.

Janice K. Brewer
Secretary of State