



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5181

by Rep. Sam Yingling

SYNOPSIS AS INTRODUCED:

215 ILCS 97/5

Amends the Illinois Health Insurance Portability and Accountability Act. Revises the definition of "small employer" to mean an employer who employs an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year (rather than an employer who employs an average of at least 2 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year). Effective immediately.

LRB101 16648 BMS 66035 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Insurance Portability and
5 Accountability Act is amended by changing Section 5 as follows:

6 (215 ILCS 97/5)

7 Sec. 5. Definitions.

8 "Affiliate" means a person that directly, or indirectly
9 through one or more intermediaries, controls, is controlled by,
10 or is under common control with the person specified.

11 "Beneficiary" has the meaning given such term under Section
12 3(8) of the Employee Retirement Income Security Act of 1974.

13 "Bona fide association" means, with respect to health
14 insurance coverage offered in a State, an association which:

15 (1) has been actively in existence for at least 5
16 years;

17 (2) has been formed and maintained in good faith for
18 purposes other than obtaining insurance;

19 (3) does not condition membership in the association on
20 any health status-related factor relating to an individual
21 (including an employee of an employer or a dependent of an
22 employee);

23 (4) makes health insurance coverage offered through

1 the association available to all members regardless of any
2 health status-related factor relating to such members (or
3 individuals eligible for coverage through a member);

4 (5) does not make health insurance coverage offered
5 through the association available other than in connection
6 with a member of the association; and

7 (6) meets such additional requirements as may be
8 imposed under State law.

9 "Church plan" has the meaning given that term under Section
10 3(33) of the Employee Retirement Income Security Act of 1974.

11 "COBRA continuation provision" means any of the following:

12 (1) Section 4980B of the Internal Revenue Code of 1986,
13 other than subsection (f) (1) of that Section insofar as it
14 relates to pediatric vaccines.

15 (2) Part 6 of subtitle B of title I of the Employee
16 Retirement Income Security Act of 1974, other than Section
17 609 of that Act.

18 (3) Title XXII of federal Public Health Service Act.

19 "Control" means the possession, direct or indirect, of the
20 power to direct or cause the direction of the management and
21 policies of a person, whether through the ownership of voting
22 securities, the holding of policyholders' proxies by contract
23 other than a commercial contract for goods or non-management
24 services, or otherwise, unless the power is solely the result
25 of an official position with or corporate office held by the
26 person. Control is presumed to exist if any person, directly or

1 indirectly, owns, controls, holds with the power to vote, or
2 holds shareholders' proxies representing 10% or more of the
3 voting securities of any other person or holds or controls
4 sufficient policyholders' proxies to elect the majority of the
5 board of directors of the domestic company. This presumption
6 may be rebutted by a showing made in a manner as the Secretary
7 may provide by rule. The Secretary may determine, after
8 furnishing all persons in interest notice and opportunity to be
9 heard and making specific findings of fact to support such
10 determination, that control exists in fact, notwithstanding
11 the absence of a presumption to that effect.

12 "Department" means the Department of Insurance.

13 "Employee" has the meaning given that term under Section
14 3(6) of the Employee Retirement Income Security Act of 1974.

15 "Employer" has the meaning given that term under Section
16 3(5) of the Employee Retirement Income Security Act of 1974,
17 except that the term shall include only employers of 2 or more
18 employees.

19 "Enrollment date" means, with respect to an individual
20 covered under a group health plan or group health insurance
21 coverage, the date of enrollment of the individual in the plan
22 or coverage, or if earlier, the first day of the waiting period
23 for enrollment.

24 "Federal governmental plan" means a governmental plan
25 established or maintained for its employees by the government
26 of the United States or by any agency or instrumentality of

1 that government.

2 "Governmental plan" has the meaning given that term under
3 Section 3(32) of the Employee Retirement Income Security Act of
4 1974 and any federal governmental plan.

5 "Group health insurance coverage" means, in connection
6 with a group health plan, health insurance coverage offered in
7 connection with the plan.

8 "Group health plan" means an employee welfare benefit plan
9 (as defined in Section 3(1) of the Employee Retirement Income
10 Security Act of 1974) to the extent that the plan provides
11 medical care (as defined in paragraph (2) of that Section and
12 including items and services paid for as medical care) to
13 employees or their dependents (as defined under the terms of
14 the plan) directly or through insurance, reimbursement, or
15 otherwise.

16 "Health insurance coverage" means benefits consisting of
17 medical care (provided directly, through insurance or
18 reimbursement, or otherwise and including items and services
19 paid for as medical care) under any hospital or medical service
20 policy or certificate, hospital or medical service plan
21 contract, or health maintenance organization contract offered
22 by a health insurance issuer.

23 "Health insurance issuer" means an insurance company,
24 insurance service, or insurance organization (including a
25 health maintenance organization, as defined herein) which is
26 licensed to engage in the business of insurance in a state and

1 which is subject to Illinois law which regulates insurance
2 (within the meaning of Section 514(b)(2) of the Employee
3 Retirement Income Security Act of 1974). The term does not
4 include a group health plan.

5 "Health maintenance organization (HMO)" means:

6 (1) a Federally qualified health maintenance
7 organization (as defined in Section 1301(a) of the Public
8 Health Service Act.);

9 (2) an organization recognized under State law as a
10 health maintenance organization; or

11 (3) a similar organization regulated under State law
12 for solvency in the same manner and to the same extent as
13 such a health maintenance organization.

14 "Individual health insurance coverage" means health
15 insurance coverage offered to individuals in the individual
16 market, but does not include short-term limited duration
17 insurance.

18 "Individual market" means the market for health insurance
19 coverage offered to individuals other than in connection with a
20 group health plan.

21 "Large employer" means, in connection with a group health
22 plan with respect to a calendar year and a plan year, an
23 employer who employed an average of at least 51 employees on
24 business days during the preceding calendar year and who
25 employs at least 2 employees on the first day of the plan year.

26 (1) Application of aggregation rule for large

1 employers. All persons treated as a single employer under
2 subsection (b), (c), (m), or (o) of Section 414 of the
3 Internal Revenue Code of 1986 shall be treated as one
4 employer.

5 (2) Employers not in existence in preceding year. In
6 the case of an employer which was not in existence
7 throughout the preceding calendar year, the determination
8 of whether the employer is a large employer shall be based
9 on the average number of employees that it is reasonably
10 expected the employer will employ on business days in the
11 current calendar year.

12 (3) Predecessors. Any reference in this Act to an
13 employer shall include a reference to any predecessor of
14 such employer.

15 "Large group market" means the health insurance market
16 under which individuals obtain health insurance coverage
17 (directly or through any arrangement) on behalf of themselves
18 (and their dependents) through a group health plan maintained
19 by a large employer.

20 "Late enrollee" means with respect to coverage under a
21 group health plan, a participant or beneficiary who enrolls
22 under the plan other than during:

23 (1) the first period in which the individual is
24 eligible to enroll under the plan; or

25 (2) a special enrollment period under subsection (F) of
26 Section 20.

1 "Medical care" means amounts paid for:

2 (1) the diagnosis, cure, mitigation, treatment, or
3 prevention of disease, or amounts paid for the purpose of
4 affecting any structure or function of the body;

5 (2) amounts paid for transportation primarily for and
6 essential to medical care referred to in item (1); and

7 (3) amounts paid for insurance covering medical care
8 referred to in items (1) and (2).

9 "Nonfederal governmental plan" means a governmental plan
10 that is not a federal governmental plan.

11 "Network plan" means health insurance coverage of a health
12 insurance issuer under which the financing and delivery of
13 medical care (including items and services paid for as medical
14 care) are provided, in whole or in part, through a defined set
15 of providers under contract with the issuer.

16 "Participant" has the meaning given that term under Section
17 3(7) of the Employee Retirement Income Security Act of 1974.

18 "Person" means an individual, a corporation, a
19 partnership, an association, a joint stock company, a trust, an
20 unincorporated organization, any similar entity, or any
21 combination of the foregoing acting in concert, but does not
22 include any securities broker performing no more than the usual
23 and customary broker's function or joint venture partnership
24 exclusively engaged in owning, managing, leasing, or
25 developing real or tangible personal property other than
26 capital stock.

1 "Placement" or being "placed" for adoption, in connection
2 with any placement for adoption of a child with any person,
3 means the assumption and retention by the person of a legal
4 obligation for total or partial support of the child in
5 anticipation of adoption of the child. The child's placement
6 with the person terminates upon the termination of the legal
7 obligation.

8 "Plan sponsor" has the meaning given that term under
9 Section 3(16)(B) of the Employee Retirement Income Security Act
10 of 1974.

11 "Preexisting condition exclusion" means, with respect to
12 coverage, a limitation or exclusion of benefits relating to a
13 condition based on the fact that the condition was present
14 before the date of enrollment for such coverage, whether or not
15 any medical advice, diagnosis, care, or treatment was
16 recommended or received before such date.

17 "Small employer" means, in connection with a group health
18 plan with respect to a calendar year and a plan year, an
19 employer who employed an average of at least one ~~2~~ but not more
20 than 50 employees on business days during the preceding
21 calendar year and who employs at least one employee ~~2 employees~~
22 on the first day of the plan year.

23 (1) Application of aggregation rule for small
24 employers. All persons treated as a single employer under
25 subsection (b), (c), (m), or (o) of Section 414 of the
26 Internal Revenue Code of 1986 shall be treated as one

1 employer.

2 (2) Employers not in existence in preceding year. In
3 the case of an employer which was not in existence
4 throughout the preceding calendar year, the determination
5 of whether the employer is a small employer shall be based
6 on the average number of employees that it is reasonably
7 expected the employer will employ on business days in the
8 current calendar year.

9 (3) Predecessors. Any reference in this Act to a small
10 employer shall include a reference to any predecessor of
11 that employer.

12 "Small group market" means the health insurance market
13 under which individuals obtain health insurance coverage
14 (directly or through any arrangement) on behalf of themselves
15 (and their dependents) through a group health plan maintained
16 by a small employer.

17 "State" means each of the several States, the District of
18 Columbia, Puerto Rico, the Virgin Islands, Guam, American
19 Samoa, and the Northern Mariana Islands.

20 "Waiting period" means with respect to a group health plan
21 and an individual who is a potential participant or beneficiary
22 in the plan, the period of time that must pass with respect to
23 the individual before the individual is eligible to be covered
24 for benefits under the terms of the plan.

25 (Source: P.A. 94-502, eff. 8-8-05.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.