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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 10.5. App-Based Drivers and Services [7448 - 7467] (*Chapter 10.5 added November 3, 2020, by initiative Proposition 22, Sec. 1.)*

ARTICLE 4. Benefits [7454 - 7455] (*Article 4 added November 3, 2020, by initiative Proposition 22, Sec. 1.)*

7454. Healthcare Subsidy. (a) Consistent with the average contributions required under the Affordable Care Act (ACA), a network company shall provide a quarterly health care subsidy to qualifying app-based drivers as set forth in this section. An app-based driver that averages the following amounts of engaged time per week on a network company's platform during a calendar quarter shall receive the following subsidies from that network company:

(1) For an average of 25 hours or more per week of engaged time in the calendar quarter, a payment greater than or equal to 100 percent of the average ACA contribution for the applicable average monthly Covered California premium for each month in the quarter.

(2) For an average of at least 15 but less than 25 hours per week of engaged time in the calendar quarter, a payment greater than or equal to 50 percent of the average ACA contribution for the applicable average monthly Covered California premium for each month in the quarter.

(b) At the end of each earnings period, a network company shall provide to each app-based driver the following information:

(1) The number of hours of engaged time the app-based driver accrued on the network company's online-enabled application or platform during that earnings period.

(2) The number of hours of engaged time the app-based driver has accrued on the network company's online-enabled application or platform during the current calendar quarter up to that point.

(c) Covered California may adopt or amend regulations as it deems appropriate to permit app-based drivers receiving subsidies pursuant to this section to enroll in health plans through Covered California.

(d) (1) As a condition of providing the health care subsidy set forth in subdivision (a), a network company may require an app-based driver to submit proof of current enrollment in a qualifying health plan. Proof of current enrollment may include, but is not limited to, health insurance membership or identification cards, evidence of coverage and disclosure forms from the health plan, or claim forms and other documents necessary to submit claims.

(2) An app-based driver shall have not less than 15 calendar days from the end of the calendar quarter to provide proof of enrollment as set forth in paragraph (1).

(3) A network company shall provide a health care subsidy due for a calendar quarter under subdivision (a) within 15 days of the end of the calendar quarter or within 15 days of the app-based driver's submission of proof of enrollment as set forth in paragraph (1), whichever is later.

(e) For purposes of this section, a calendar quarter refers to the following four periods of time:

(1) January 1 through March 31.

(2) April 1 through June 30.

(3) July 1 through September 30.

(4) October 1 through December 31.

(f) Nothing in this section shall be interpreted to prevent an app-based driver from receiving a health care subsidy from more than one network company for the same calendar quarter.

(g) On or before December 31, 2020, and on or before each September 1 thereafter, Covered California shall publish the average statewide monthly premium for an individual for the following calendar year for a Covered California bronze health insurance plan.

(h) This section shall become inoperative in the event the United States or the State of California implements a universal health care system or substantially similar system that expands coverage to the recipients of subsidies under this section.

(Added November 3, 2020, by initiative Proposition 22, Sec. 1. Effective December 16, 2020. Conditionally inoperative by its own provisions.)

7455. Loss and Liability Protection. No network company shall operate in California for more than 90 days unless the network company carries, provides, or otherwise makes available the following insurance coverage:

(a) For the benefit of app-based drivers, occupational accident insurance to cover medical expenses and lost income resulting from injuries suffered while the app-based driver is online with a network company's online-enabled application or platform. Policies shall at a minimum provide the following:

(1) Coverage for medical expenses incurred, up to at least one million dollars (\$1,000,000).

(2) (A) Disability payments equal to 66 percent of the app-based driver's average weekly earnings from all network companies as of the date of injury, with minimum and maximum weekly payment rates to be determined in accordance with subdivision (a) of Section 4453 of the Labor Code for up to the first 104 weeks following the injury.

(B) "Average weekly earnings" means the app-based driver's total earnings from all network companies during the 28 days prior to the covered accident divided by four.

(b) For the benefit of spouses, children, or other dependents of app-based drivers, accidental death insurance for injuries suffered by an app-based driver while the app-based driver is online with the network company's online-enabled application or platform that result in death. For purposes of this subdivision, burial expenses and death benefits shall be determined in accordance with Section 4701 and Section 4702 of the Labor Code.

(c) For the purposes of this section, "online" means the time when an app-based driver is utilizing a network company's online-enabled application or platform and can receive requests for rideshare services or delivery services from the network company, or during engaged time.

(d) Occupational accident insurance or accidental death insurance under subdivisions (a) and (b) shall not be required to cover an accident that occurs while online but outside of engaged time where the injured app-based driver is in engaged time on one or more other network company platforms or where the app-based driver is engaged in personal activities. If an accident is covered by occupational accident insurance or accidental death insurance maintained by more than one network company, the insurer of the network company against whom a claim is filed is entitled to contribution for the pro-rata share of coverage attributable to one or more other network companies up to the coverages and limits in subdivisions (a) and (b).

(e) Any benefits provided to an app-based driver under subdivision (a) or (b) of this section shall be considered amounts payable under a worker's compensation law or disability benefit for the purpose of determining amounts payable under any insurance provided under Article 2 (commencing with Section 11580) of Chapter 1 of Part 3 of Division 2 of the Insurance Code.

(f) (1) For the benefit of the public, a DNC as defined in Section 7463 shall maintain automobile liability insurance of at least one million dollars (\$1,000,000) per occurrence to compensate third parties for injuries or losses proximately caused by the operation of an automobile by an app-based driver during engaged time in instances where the automobile is not otherwise covered by a policy that complies with subdivision (b) of Section 11580.1 of the Insurance Code.

(2) For the benefit of the public, a TNC as defined in Section 7463 shall maintain liability insurance policies as required by Article 7 (commencing with Section 5430) of Chapter 8 of Division 2 of the Public Utilities Code.

(3) For the benefit of the public, a TCP as defined in Section 7463 shall maintain liability insurance policies as required by Article 4 (commencing with Section 5391) of Chapter 8 of Division 2 of the Public Utilities Code.

(Added November 3, 2020, by initiative Proposition 22, Sec. 1. Effective December 16, 2020.)