

§ 1357.509. Exceptions to requirement of offering health care service plan contract or accepting applications for contract; Plan of rehabilitation

(a) To the extent permitted by PPACA, a plan shall not be required to offer a health care service plan contract or accept applications for the contract pursuant to this article in the case of any of the following:

(1) To a small employer, if the eligible employees and dependents who are to be covered by the plan contract do not live, work, or reside within a plan's approved service areas.

(2)(A) Within a specific service area or portion of a service area, if a plan reasonably anticipates and demonstrates to the satisfaction of the director all of the following:

(i) It will not have sufficient health care delivery resources to ensure that health care services will be available and accessible to the eligible employee and dependents of the employee because of its obligations to existing enrollees.

(ii) It is applying this subparagraph uniformly to all employers without regard to the claims experience of those employers, and their employees and dependents, or any health status-related factor relating to those employees and dependents.

(iii) The action is not unreasonable or clearly inconsistent with the intent of this chapter.

(B) A plan that cannot offer a health care service plan contract to small employers because it is lacking in sufficient health care delivery resources within a service area or a portion of a service area pursuant to subparagraph (A) may not offer a contract in the area in which the plan is not offering coverage to small employers to new employer groups until the later of the following dates:

(i) The 181st day after the date that coverage is denied pursuant to this paragraph.

(ii) The date the plan notifies the director that it has the ability to

deliver services to small employer groups, and certifies to the director that from the date of the notice it will enroll all small employer groups requesting coverage in that area from the plan.

(C) Subparagraph (B) shall not limit the plan's ability to renew coverage already in force or relieve the plan of the responsibility to renew that coverage as described in Section 1365.

(D) Coverage offered within a service area after the period specified in subparagraph (B) shall be subject to the requirements of this section.

(b)(1) A health care service plan may decline to offer a health care service plan contract to a small employer if the plan demonstrates to the satisfaction of the director both of the following:

(A) It does not have the financial reserves necessary to underwrite additional coverage. In determining whether this subparagraph has been satisfied, the director shall consider, but not be limited to, the plan's compliance with the requirements of Section 1367, Article 6 (commencing with Section 1375), and the rules adopted thereunder.

(B) It is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees and dependents or any health status-related factor relating to those employees and dependents.

(2) A plan that denies coverage to a small employer under paragraph (1) shall not offer coverage in the group market before the later of the following dates:

(A) The 181st day after the date that coverage is denied pursuant to paragraph (1).

(B) The date the plan demonstrates to the satisfaction of the director that the plan has sufficient financial reserves necessary to underwrite additional coverage.

(3) Paragraph (2) shall not limit the plan's ability to renew coverage already in force or relieve the plan of the responsibility to renew that coverage as described in Section 1365.

(4) Coverage offered within a service area after the period specified in paragraph (2) shall be subject to the requirements of this section.

(c) Nothing in this article shall be construed to limit the director's authority to develop and implement a plan of rehabilitation for a health care service plan whose financial viability or organizational and administrative capacity has become impaired, to the extent permitted by PPACA.

HISTORY:

Added Stats 2012 ch 852 § 3 (AB 1083),
effective January 1, 2013. Amended Stats 2013

1st Ex Sess 2013-2014 ch 2 § 6 (SBX1-2),
effective September 30, 2013.

§ 1357.510. Ending of offering of contracts or accepting of applica- tions

The director may require a plan to discontinue the offering of contracts or acceptance of applications from any small employer or group upon a determination by the director that the plan does not have sufficient financial viability, or organizational and administrative capacity to ensure the delivery of health care services to its enrollees. In determining whether the conditions of this section have been met, the director shall consider, but not be limited to, the

plan's compliance with the requirements of Section 1367, Article 6 (commencing with Section 1375), and the rules adopted thereunder.

HISTORY:

Added Stats 2012 ch 852 § 3 (AB 1083),
effective January 1, 2013.