

§ 1357.505. Requirements for employer associations offering large group health care plans to small group members [Effective until January 1, 2030; Repealed effective January 1, 2030]

(a) Notwithstanding paragraph (2) of subdivision (a) of Section 1357.503, an association of employers may offer a large group health care service plan contract to small group employer members of the association, consistent with the Employee Retirement Income Security Act of 1974 (Public Law 93-406) (ERISA), as amended (29 U.S.C. Sec. 1001 et seq.), if all of the following requirements are met:

(1) The association was established prior to January 1, 1966, has been in continuous existence since that date, and is a bona fide association or group of employers that may act as an employer under Section 3(5) of ERISA (29 U.S.C. Sec. 1002(5)). The association is the sponsor of a multiple employer welfare arrangement (MEWA), as defined under Section 3(40) of ERISA (29 U.S.C. Sec. 1002(40)).

(2) The MEWA is fully insured as described in Section 514 of ERISA (29 U.S.C. Sec. 1144) and is in full compliance with all applicable state and federal laws.

(3) The MEWA has offered a large group health care service plan contract since January 1, 2012, in connection with an employee welfare benefit plan under Section 3(1) of ERISA (29 U.S.C. Sec. 1002(1)).

(4) The large group health care service plan contract offers to employees a level of coverage having an actuarial value equivalent to, or greater than, the platinum level of coverage pursuant to Section 1367.009 available through the California Health Benefit Exchange established pursuant to Section 100500 of the Government Code and provides coverage for essential health benefits consistent with Section 1367.005 and any rules or regulations pursuant to that section.

(5) The large group health care service plan contract includes coverage of common law employees, and their dependents, who are employed by an association member in the engineering, surveying, or design industry and whose employer has operations in California.

(6) The large group health care service plan offers only fully insured benefits through a health care service plan contract with a health care service plan licensed by the Department of Managed Health Care.

(7) Association members purchasing health coverage have a minimum of two full-time common law employees and are current employer members of the association sponsoring the MEWA. Employer members of the association subsidize employee premiums by at least 51 percent.

(8) The association is an organization with business and organizational purposes unrelated to the provision of health care benefits and existed prior to the establishment of the MEWA offering the employee welfare benefit plan.

(9) The participating member employers have a commonality of interests from being in the same industry, unrelated to the provision of health care benefits.

(10) Membership in the association is open solely to employers, and the participating member employers, either directly or indirectly, exercise control over the employee welfare benefit plan, the MEWA, and the large group health care service plan contract, both in form and substance.

(11) The large group health care service plan contract is treated as a single-risk-rated contract that is guaranteed issued and renewable for member employers, as well as their employees and dependents. An employee or dependent is not charged premium rates based on health status and is not excluded from coverage based upon any preexisting condition. Employee and dependent eligibility are not directly or indirectly based on health status or claims of any person. An employer otherwise eligible is not excluded from participating in a MEWA, or offering or renewing the large group health care service plan contract, based on the health status or claims of any employee or dependent.

(12) The MEWA at all times covers at least 101 employees.

(13) The association and the MEWA file applications for registration with the department on or before June 1, 2025.

(A) An association and MEWA that timely register with the department prior to June 1, 2025, and that are found to be in compliance with this subdivision, shall annually file evidence of ongoing compliance with this subdivision with the department, in a form and manner set forth by the department.

(B) Except as provided in paragraph (3) of subdivision (b), an association and MEWA that do not meet the requirements of subparagraph (A) shall be subject to the restrictions provided in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1357.503.

(C) An association and MEWA that have registered with the department and fail to show ongoing compliance in their annual filing shall be subject to the restrictions in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1357.503.

(D) By June 30, 2026, the department shall provide the health policy committees of the Legislature with the most recent filings made pursuant to subparagraph (A).

(E) The filings and recommendations to be submitted pursuant to subparagraph (D) shall be submitted in compliance with Section 9795 of the Government Code.

(F)(i) The department shall conduct an analysis of the impacts on the small employer health insurance market in California of health care service plans and health insurers currently issuing large group contracts and policies to small employers through MEWAs. The purpose of the analysis is to determine the extent to which coverage of Californians in existing MEWAs has any detrimental impact on the affordability of

and access to small group health insurance for small businesses in California who do not purchase health insurance through a MEWA. The department may coordinate with the Department of Insurance. Health care service plans, health insurers, and MEWAs shall comply with requests for information from the departments to complete this analysis. The department shall post a report summarizing its analysis on its internet website on or before July 1, 2026.

(ii) The department may contract with a consultant or consultants with expertise to assist the department in its analysis. Contracts entered into pursuant to this subparagraph shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, and the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code).

(b)(1) On or after June 1, 2025, a health care service plan shall not market, issue, amend, renew, or deliver large employer health care service plan coverage to any association or MEWA that provides any benefit to a resident in this state unless the association and MEWA have registered with the department and are found to be in compliance with the requirements set forth in subdivision (a), or unless the association and MEWA filed applications for registration pursuant to subdivision (a) and the applications are pending before the department. The department shall have the authority to determine compliance with the requirements set forth in subdivision (a).

(2) The department may issue guidance to health care service plans, associations, and MEWAs regarding registration and compliance with subdivision (a). The guidance shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(3) Subdivision (a) does not apply to, or in any way affect, a self-funded or partially self-funded multiple employer welfare arrangement subject to Article 4.7 (commencing with Section 742.20) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

HISTORY:

Added Stats 2024 ch 398 § 1 (AB 2434),

effective January 1, 2025, repealed January 1, 2030.