

§ 1357.604. Sale of contracts to small employers; Filing of employee participation and employer contribution requirements; Rejection of application; Prohibited activities

(a)(1) A plan shall fairly and affirmatively renew a grandfathered health plan contract with a small employer.

(2) Each plan shall make available to each small employer all nongrandfathered small employer health care service plan contracts that the plan offers and sells to small employers or to associations that include small

employers in this state consistent with Article 3.1 (commencing with Section 1357).

(3) No plan or solicitor shall induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from a health care service plan contract that is provided in connection with the employee's employment or membership in a guaranteed association.

(b) Every plan shall file with the director the reasonable employee participation requirements and employer contribution requirements that will be applied in renewing its grandfathered health care service plan contracts. Participation requirements shall be applied uniformly among all small employer groups, except that a plan may vary application of minimum employee participation requirements by the size of the small employer group and whether the employer contributes 100 percent of the eligible employee's premium. Employer contribution requirements shall not vary by employer size. A health care service plan shall not establish a participation requirement that (1) requires a person who meets the definition of a dependent in subdivision (a) of Section 1357.600 to enroll as a dependent if he or she is otherwise eligible for coverage and wishes to enroll as an eligible employee and (2) allows a plan to reject an otherwise eligible small employer because of the number of persons that waive coverage due to coverage through another employer. Members of an association eligible for health coverage under subdivision (n) of Section 1357.600, but not electing any health coverage through the association, shall not be counted as eligible employees for purposes of determining whether the guaranteed association meets a plan's reasonable participation standards.

(c) No plan or solicitor shall, directly or indirectly, engage in the following activities:

(1) Encourage or direct small employers to refrain from filing an application for coverage or renewal of coverage with a plan because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(2) Encourage or direct small employers to seek coverage from another plan, or coverage offered through the California Health Benefit Exchange, because of the health status, claims experience, industry, occupation of the small employer, or geographic location provided that it is within the plan's approved service area.

(d) A plan shall not, directly or indirectly, enter into any contract, agreement, or arrangement with a solicitor that provides for or results in the compensation paid to a solicitor for the sale of a health care service plan contract to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer. This subdivision does not apply to a compensation arrangement that provides compensation to a solicitor on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer or small employer's employees.

(e) A policy or contract that covers a small employer, as defined in Section 1304(b) of PPACA and in subdivision (k) of Section 1357.600 shall not establish

rules for eligibility, including continued eligibility, of an individual, or dependent of an individual, to enroll under the terms of the plan based on any of the following health status-related factors:

- (1) Health status.
 - (2) Medical condition, including physical and mental illnesses.
 - (3) Claims experience.
 - (4) Receipt of health care.
 - (5) Medical history.
 - (6) Genetic information.
 - (7) Evidence of insurability, including conditions arising out of acts of domestic violence.
 - (8) Disability.
 - (9) Any other health status-related factor as determined by any federal regulations, rules, or guidance issued pursuant to Section 2705 of the federal Public Health Service Act.
- (f) A plan shall comply with the requirements of Section 1374.3.

HISTORY:

Added Stats 2012 ch 852 § 6 (AB 1083),
effective January 1, 2013.