

1 H.646

2 Introduced by Representatives Browning of Arlington, Condon of Colchester,
3 Dickinson of St. Albans Town, Koch of Barre Town, Shaw of
4 Pittsford, Stevens of Shoreham and Waite-Simpson of Essex

5 Referred to Committee on

6 Date:

7 Subject: Health; health insurance; health benefit exchange; Green Mountain
8 Care; medical loans; financing

9 Statement of purpose: This bill proposes to define a small employer for
10 purposes of Vermont's health benefit exchange as an employer with 50 or
11 fewer employees in 2014 and 2015, as an employer with 100 or fewer
12 employees in 2016, and as an employer of any size in 2017 and subsequent
13 years. The bill would direct employers offering exchange plans to their
14 employees to contribute a defined amount toward the cost of the employee's
15 plan and would require the employee to pay the difference. It would require
16 health insurance be available for purchase in the individual and small group
17 markets both inside and outside the exchange and would direct the department
18 of banking, insurance, securities, and health care administration to propose a
19 mechanism for merging the individual and small group markets. The bill
20 would require the secretary of administration to provide an estimate of the cost
21 of providing an additional state subsidy on a sliding scale to individuals

1 eligible for federal premium tax credits and cost-sharing subsidies. The bill
2 would require Green Mountain Care to provide cost-sharing incentives to
3 individuals willing to commit to healthy behaviors. It would establish a
4 medical debt loan fund for individuals experiencing extreme financial hardship
5 as the direct result of medical debt, and would require the legislative joint
6 fiscal office to propose by September 1, 2012 possible financing systems for
7 Green Mountain Care.

8 An act relating to consumer choices in health care

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. FINDINGS

11 The general assembly finds:

12 (1) The federal Patient Protection and Affordable Care Act (Public Law
13 111-148), as amended by the Health Care and Education Reconciliation Act of
14 2010 (Public Law 111-152) (“Affordable Care Act”), requires states to
15 establish their own health benefit exchange, or the federal government will do
16 it for them. The exchange, in which individuals and small groups may
17 purchase health insurance, shall be operational by January 1, 2014.

18 (2) According to the executive summary of the proposed rules on health
19 benefit exchanges issued by the U.S. Department of Health and Human
20 Services, the state exchanges will “offer Americans competition, choice, and

1 clout” and “provide competitive marketplaces for individuals and small
2 employers to directly compare available private health insurance options on the
3 basis of price, quality, and other factors.”

4 (3) Because it is uncertain when, if ever, Vermont will receive the
5 federal waiver or waivers needed to implement Green Mountain Care,
6 Vermont’s health benefit exchange must be flexible and must provide a robust
7 and competitive marketplace in which individuals and businesses may
8 purchase health insurance.

9 (4) The Vermont health benefit exchange may help the uninsured and
10 underinsured to purchase affordable health insurance, in many cases with
11 federal premium tax credits and cost-sharing subsidies. But because there is
12 also uncertainty about the future of the Affordable Care Act and health benefit
13 exchanges generally, and in order to ensure that uninsured and underinsured
14 Vermonters will have support with or without the implementation of Green
15 Mountain Care, the state must take additional steps now to help those
16 individuals and to protect them from catastrophic medical debt.

17 (5) Many of the primary factors that determine whether individuals are
18 sick or well stem from their own behavior and lifestyle choices.

19 Sec. 2. CONSTRUCTION

20 Nothing in this act shall be construed to interfere with efforts to plan for or
21 implement Green Mountain Care.

1 Vermont health benefit exchange established in ~~33 V.S.A. chapter 18,~~
2 ~~subchapter 4~~ shall begin enrolling large employers for coverage beginning
3 January 1, 2017.

4 * * *

5 Sec. 4. 33 V.S.A. § 1802 is amended to read:

6 § 1802. DEFINITIONS

7 For purposes of this subchapter:

8 * * *

9 (5) "Qualified employer" ~~means an employer that:~~

10 (A) means an entity which employed an average of not more than 50
11 employees during the preceding year and which:

12 (i) has its principal place of business in this state and elects to
13 provide coverage for its eligible employees through the Vermont health benefit
14 exchange, regardless of where an employee resides; or

15 ~~(B)(ii)~~ (ii) elects to provide coverage through the Vermont health benefit
16 exchange for all of its eligible employees who are principally employed in this
17 state.

18 (B) after January 1, 2016, shall include an entity which meets the
19 requirements of subdivisions (A)(i) and (ii) of this subdivision (5) and which
20 had an average of not more than 100 employees during the preceding calendar

1 year. After January 1, 2017, the term shall include all employers meeting the
2 requirements, regardless of size.

3 * * *

4 Sec. 5. 33 V.S.A. § 1804 is amended to read:

5 § 1804. PROVISIONS AFFECTING QUALIFIED EMPLOYERS FROM
6 JULY 1, 2012 THROUGH JANUARY 1, 2016

7 ~~{Reserved.}~~

8 (a) A qualified employer shall be an employer who, on at least 50 percent
9 of its working days during the preceding calendar quarter, employed at least
10 one and no more than 50 employees, and the term “qualified employer”
11 includes self-employed persons. Calculation of the number of employees of a
12 qualified employer shall not include a part-time employee who works fewer
13 than 30 hours per week.

14 (b) An employer with 50 or fewer employees that offers a qualified health
15 benefit plan to its employees through the Vermont health benefit exchange
16 may continue to participate in the exchange even if the employer’s size grows
17 beyond 50 employees as long as the employer continuously makes qualified
18 health benefit plans in the Vermont health benefit exchange available to its
19 employees.

1 (c)(1) In order to determine the amount of a qualified employer's
2 contribution to an employee's health insurance premium, the employer shall
3 select:

4 (A) a health insurer;

5 (B) the bronze, silver, gold, or platinum level of coverage;

6 (C) a plan within the selected level of coverage to serve as the
7 benchmark for calculating the employer's contribution; and

8 (D) the percentage of the premium for the benchmark plan for which
9 the employer will be responsible.

10 (2) A qualified employer shall provide its qualified employees with the
11 option to enroll in any qualified health benefit plan offered by the employer's
12 selected health insurer, pursuant to subdivision (1)(A) of this subsection, and
13 within the employer's selected level of coverage, pursuant to subdivision
14 (1)(B) of this subsection. The employer shall contribute the percentage of the
15 benchmark plan selected pursuant to subdivisions (1)(C) and (D) of this
16 subsection toward the cost of the plan chosen by the employee, and the
17 employee shall be responsible for the remainder of the premium, if any.

1 Sec. 7. 33 V.S.A. § 1804 is amended to read:

2 § 1804. PROVISIONS AFFECTING QUALIFIED EMPLOYERS ~~FROM~~
3 JANUARY 1, 2016 THROUGH ON AND AFTER JANUARY 1,
4 2017

5 (a) A qualified employer shall be an employer of any size who, ~~on at least~~
6 ~~50 percent of its working days during the preceding calendar quarter,~~
7 ~~employed at least one and no more than 100 employees~~ elects to make all its
8 full-time employees eligible for one or more qualified health plans offered in
9 the small or large group market, as appropriate to the employer's size, and the
10 term "qualified employer" includes self-employed persons. Calculation of the
11 ~~number of employees of a qualified employer shall not include a part-time~~ A
12 full-time employee shall be an employee who works fewer more than 30 hours
13 per week.

14 (b) ~~An employer with 100 or fewer employees that offers a qualified health~~
15 ~~benefit plan to its employees through the Vermont health benefit exchange~~
16 ~~may continue to participate in the exchange even if the employer's size grows~~
17 ~~beyond 100 employees as long as the employer continuously makes qualified~~
18 ~~health benefit plans in the Vermont health benefit exchange available to its~~
19 ~~employees.~~

20 * * *

1 Sec. 11. STATE SUBSIDY; COST ESTIMATE

2 No later than November 15, 2012, the secretary of administration shall
3 submit to the general assembly a proposal for and estimate of the costs of
4 providing additional state subsidies on a sliding scale to individuals eligible for
5 federal premium tax credits under Section 36B of the Internal Revenue Code
6 of 1986 and cost-sharing subsidies under Section 1402 of the Affordable
7 Care Act.

8 Sec. 12. RULEMAKING

9 The secretary of human services shall adopt rules to implement the defined
10 contribution mechanism established in 33 V.S.A. § 1804(c).

11 Sec. 13. Sec. 4b of No. 48 of the Acts of 2011 is amended to read:

12 Sec. 4b. EXCHANGE IMPLEMENTATION

13 ~~(a) The~~ Until implementation of Green Mountain Care pursuant to
14 33 V.S.A. § 1822, the commissioner of Vermont health access shall make a
15 ~~reasonable effort to maintain contracts with at least two health insurers to~~
16 ~~provide qualified health benefit plans, in addition to the multistate plans~~
17 ~~required by the Affordable Care Act, in the Vermont health benefit exchange~~
18 ~~in 2014 if at least two health insurers~~ all health insurers that are interested in
19 participating in the Vermont health benefit exchange and meet the
20 requirements of 33 V.S.A. § 1806; provided that the commissioner shall not be

1 required to solicit participation by insurers outside the state in order to contract
2 with two insurers.

3 (b) ~~Nothing in this section shall be construed to require the commissioner~~
4 to contract with a health insurer to provide a plan that does not meet the
5 requirements specified in 33 V.S.A. chapter 18, subchapter 1.

6 Sec. 14. 33 V.S.A. § 1825(a)(3) is amended to read:

7 (3) The Green Mountain Care board shall consider whether to impose
8 cost-sharing requirements; if so, whether to make the cost-sharing
9 requirements income-sensitized; and the impact of any cost-sharing
10 requirements on an individual's ability to access care.

11 (A) The board shall consider waiving any cost-sharing requirement
12 for evidence-based primary and preventive care; for palliative care; and for
13 chronic care for individuals participating in chronic care management and,
14 where circumstances warrant, for individuals with chronic conditions who are
15 not participating in a chronic care management program.

16 (B) The board shall reduce, waive, or otherwise modify cost-sharing
17 requirements in return for an individual's adherence to a program of health
18 promotion and disease prevention developed by the board pursuant to
19 evidence-based best practices; provided, however, that the board shall make
20 available a reasonable alternative standard to obtain the cost-sharing discount
21 to any individual for whom it is unreasonably difficult due to a medical

1 condition or other reasonable mitigating circumstance to satisfy the otherwise
2 applicable standard for the discount.

3 Sec. 15. 33 V.S.A. chapter 19, subchapter 9 is added to read:

4 Subchapter 9. Medical Debt Loan Fund

5 § 2091. MEDICAL DEBT LOAN FUND

6 (a) The medical debt loan fund is established in the state treasury as a
7 special fund to finance zero-interest loans to individuals experiencing extreme
8 financial hardship as the direct result of medical debt.

9 (b) Into the fund shall be deposited:

10 (1) loan payments collected by the director of economic opportunity
11 pursuant to subsection 2092(b) of this title;

12 (2) transfers or appropriations from the general fund, authorized by the
13 general assembly;

14 (3) to the extent authorized under federal law, federal funds for
15 Medicaid, Medicare, and the Vermont health benefit exchange established in
16 chapter 18, subchapter 1 of this title; and

17 (4) the proceeds from grants, donations, contributions, taxes, and any
18 other sources of revenue as may be provided by statute or by rule.

19 (c) The fund shall be administered pursuant to 32 V.S.A. chapter 7,
20 subchapter 5, except that interest earned on the fund and any remaining

1 balance shall be retained in the fund. The department shall maintain records
2 indicating the amount of money in the fund at any time.

3 (d) All monies received by or generated to the fund shall be used only for:

4 (1) payments to health care providers; and

5 (2) zero-interest loans to individuals experiencing extreme financial
6 hardship as the direct result of medical debt.

7 Sec. 16. 3 V.S.A. § 3903a is added to read:

8 § 3903a. MEDICAL DEBT; PAYMENTS; LOANS

9 (a) Not later than January 1, 2013, the director of economic opportunity, in
10 consultation with the commissioner of Vermont health access, shall establish a
11 loan program to be administered by the designated community services
12 agencies established under section 3903 of this title. The purpose of the loans
13 shall be to provide emergency assistance to individuals whose medical debt has
14 resulted in extreme financial hardship. The loans shall be used to assist
15 individuals with meeting immediate and urgent individual and family needs.

16 (b) Loans shall be available only to Vermont residents, and recipients of
17 the loans shall not be charged interest. The loan terms and conditions, as well
18 as the program's eligibility criteria, shall be established by the director of
19 economic opportunity, in consultation with the commissioner of Vermont
20 health access, and shall be consistent with the amount of money available in
21 the medical debt loan fund established in section 2091 of this title. The

1 director shall establish criteria for repayment of loans, which shall include a
2 provision specifying that the amount of the repayment due in any year shall be
3 withheld pursuant to the provisions of 32 V.S.A. chapter 151, subchapter 12
4 from any tax refund to which a loan recipient is entitled in that year.

5 (c) The director shall develop a process by which the funds provided to
6 loan recipients may be paid directly to an applicable health care provider or
7 providers in the full amount of a recipient's outstanding medical debt.

8 (d) Beginning December 1, 2014, each community services agency shall
9 report annually to the director of economic opportunity and the commissioner
10 of Vermont health access the status of the loans issued under this section, as
11 well as any other information deemed relevant by the director and the
12 commissioner. The director and the commissioner shall aggregate such
13 information and report it to the governor and the general assembly not later
14 than January 1 of each year beginning in 2014.

15 Sec. 17. FINANCING ANALYSIS

16 (a) By September 1, 2012, the legislative joint fiscal office shall provide to
17 the general assembly an analysis of possible financing systems for Green
18 Mountain Care.

19 (b) The analysis shall contain a variety of scenarios and possible funding
20 mechanisms, using the benefit package of the state employees' health
21 insurance plan with the highest enrollment as a proxy for the Green Mountain

1 Care benefit package, and shall be designed to address both projected costs and
2 combinations of potential funding sources. The analysis shall also explore the
3 sustainability of Green Mountain Care in the event of changing economic
4 conditions and changes in the availability of federal funds.

5 (c) The legislative joint fiscal office may consult or contract with such
6 persons as the office deems necessary to create the analysis required by this
7 section; provided, however, that the office shall not consult or contract with
8 any person outside the legislative joint fiscal office who was involved in
9 developing the health care system design proposal and implementation plan
10 pursuant to Sec. 6 of No. 128 of the Acts of the 2009 Adj. Sess. (2010).

11 Sec. 18. EFFECTIVE DATES

12 (a) Sec. 6 (100 employees or fewer in the exchange) of this act shall take
13 effect on January 1, 2016.

14 (b) Sec. 7 (all employers in the exchange) of this act shall take effect on
15 January 1, 2017.

16 (c) The remaining sections of this act shall take effect on July 1, 2012.