

1 H.35

2 An act relating to unmerging the individual and small group health
3 insurance markets

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

5 Sec. 1. 33 V.S.A. § 1802 is amended to read:

6 § 1802. DEFINITIONS

7 As used in this subchapter:

8 * * *

9 (5) “Qualified employer”:

10 ~~(A)~~ means an entity that employed an average of not more than 50
11 100 employees on working days during the preceding calendar year and that:

12 ~~(i)(A)~~ has its principal place of business in this State and elects to
13 provide coverage for its eligible employees through the Vermont Health
14 Benefit Exchange, regardless of where an employee resides; or

15 ~~(ii)(B)~~ elects to provide coverage through the Vermont Health
16 Benefit Exchange for all of its eligible employees who are principally
17 employed in this State;

18 ~~(B) on and after January 1, 2016, shall include an entity that:~~

19 ~~(i) employed an average of not more than 100 employees on~~
20 ~~working days during the preceding calendar year; and~~

21 ~~(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this~~
22 ~~subdivision (5).~~

1 (C) [Repealed.]

2 * * *

3 Sec. 2. 33 V.S.A. § 1804 is amended to read:

4 § 1804. QUALIFIED EMPLOYERS

5 ~~(a)(1) Until January 1, 2016, a qualified employer shall be an entity that~~
6 ~~employed an average of not more than 50 employees on working days during~~
7 ~~the preceding calendar year, and the term “qualified employer” includes self-~~
8 ~~employed persons to the extent permitted under the Affordable Care Act.~~
9 ~~Calculation of the number of employees of a qualified employer shall not~~
10 ~~include a part-time employee who works fewer than 30 hours per week or a~~
11 ~~seasonal worker as defined in 26 U.S.C. § 4980H(c)(2)(B).~~

12 ~~(2) An employer with 50 or fewer employees that offers a qualified~~
13 ~~health benefit plan to its employees through the Vermont Health Benefit~~
14 ~~Exchange may continue to participate in the Exchange even if the employer’s~~
15 ~~size grows beyond 50 employees, as long as the employer continuously makes~~
16 ~~qualified health benefit plans in the Vermont Health Benefit Exchange~~
17 ~~available to its employees. [Repealed.]~~

18 (b)(1) ~~On and after January 1, 2016, a~~ A qualified employer shall be an
19 entity that employed an average of not more than 100 employees on working
20 days during the preceding calendar year, and the term “qualified employer”
21 includes self-employed persons to the extent permitted under the Affordable

1 Care Act. The number of employees shall be calculated using the method set
2 forth in 26 U.S.C. § 4980H(c)(2).

3 (2) An employer with 100 or fewer employees that offers a qualified
4 health benefit plan to its employees through the Vermont Health Benefit
5 Exchange may continue to participate in the Exchange even if the employer's
6 size grows beyond 100 employees, ~~as long as~~ provided the employer
7 continuously makes qualified health benefit plans in the Vermont Health
8 Benefit Exchange available to its employees.

9 (c) [Repealed.]

10 Sec. 3. 33 V.S.A. § 1805 is amended to read:

11 § 1805. DUTIES AND RESPONSIBILITIES

12 The Vermont Health Benefit Exchange shall have the following duties and
13 responsibilities consistent with the Affordable Care Act:

14 * * *

15 (7) transferring to the Secretary of the U.S. Department of the Treasury
16 the name and taxpayer identification number of each individual ~~who was an~~
17 ~~employee of an employer but who was~~ determined to be eligible for the
18 premium tax credit under Section 36B of the Internal Revenue Code of 1986,
19 including each individual who was an employee of an employer but who was
20 determined to be eligible for the premium tax credit for one of the following
21 reasons:

1 (A) the employer did not provide minimum essential coverage; or

2 (B) the employer provided the minimum essential coverage, but it
3 was determined under Section 36B(c)(2)(C) of the Internal Revenue Code to
4 be either unaffordable to the employee or not to provide the required minimum
5 actuarial value;

6 * * *

7 (9)~~(A)~~ transferring to the Secretary of the U.S. Department of the
8 Treasury the name and taxpayer identification number of each individual who
9 notifies the Vermont Health Benefit Exchange that he or she has changed
10 employers and of each individual who ceases coverage under a qualified health
11 benefit plan during a plan year and the effective date of that cessation; and

12 ~~(B) communicating to each employer the name of each of its~~
13 ~~employees and the effective date of the cessation reported to the U.S.~~
14 ~~Department of the Treasury under this subdivision;~~

15 * * *

16 (17) establishing procedures, ~~including payment mechanisms and~~
17 ~~standard fee or compensation schedules~~, that allow licensed insurance agents
18 and brokers to be appropriately compensated outside the navigator program
19 established in section 1807 of this title for:

1 (A) ~~assisting~~ assist with the enrollment of qualified individuals and
2 qualified employers in any qualified health plan offered through the Exchange
3 for which the individual or employer is eligible; and

4 (B) ~~assisting~~ assist qualified individuals in applying for premium tax
5 credits and cost-sharing reductions for qualified health benefit plans purchased
6 through the Exchange.

7 Sec. 4. 33 V.S.A. § 1811 is amended to read:

8 § 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL
9 EMPLOYERS

10 (a) As used in this section:

11 (1) “Health benefit plan” means a health insurance policy, a nonprofit
12 hospital or medical service corporation service contract, or a health
13 maintenance organization health benefit plan offered through the Vermont
14 Health Benefit Exchange or a reflective health benefit plan offered in
15 accordance with section 1813 of this title that is issued to an individual in the
16 individual market or to an employee of a small employer in the small group
17 market. The term does not include coverage only for accident or disability
18 income insurance, liability insurance, coverage issued as a supplement to
19 liability insurance, workers’ compensation or similar insurance, automobile
20 medical payment insurance, credit-only insurance, coverage for on-site
21 medical clinics, or other similar insurance coverage in which benefits for

1 health services are secondary or incidental to other insurance benefits as
2 provided under the Affordable Care Act. The term also does not include stand-
3 alone dental or vision benefits; long-term care insurance; short-term, limited-
4 duration health insurance; specific disease or other limited benefit coverage;
5 Medicare supplemental health benefits; Medicare Advantage plans; and other
6 similar benefits excluded under the Affordable Care Act.

7 (2) “Registered carrier” means any person, except an insurance agent,
8 broker, appraiser, or adjuster, who issues a health benefit plan and who has a
9 registration in effect with the Commissioner of Financial Regulation as
10 required by this section.

11 ~~(3)(A) Until January 1, 2016, “small employer” means an entity that~~
12 ~~employed an average of not more than 50 employees on working days during~~
13 ~~the preceding calendar year. The term includes self-employed persons to the~~
14 ~~extent permitted under the Affordable Care Act. Calculation of the number of~~
15 ~~employees of a small employer shall not include a part-time employee who~~
16 ~~works fewer than 30 hours per week or a seasonal worker as defined in 26~~
17 ~~U.S.C. § 4980H(e)(2)(B). An employer may continue to participate in the~~
18 ~~Exchange even if the employer’s size grows beyond 50 employees, as long as~~
19 ~~the employer continuously makes qualified health benefit plans in the Vermont~~
20 ~~Health Benefit Exchange available to its employees.~~

1 ~~(B) Beginning on January 1, 2016, “small~~ “Small employer” means
2 an entity that employed an average of not more than 100 employees on
3 working days during the preceding calendar year. The term includes self-
4 employed persons to the extent permitted under the Affordable Care Act. The
5 number of employees shall be calculated using the method set forth in 26
6 U.S.C. § 4980H(c)(2). An employer may continue to participate in the
7 Exchange even if the employer’s size grows beyond 100 employees, ~~as long as~~
8 provided the employer continuously makes qualified health benefit plans in the
9 Vermont Health Benefit Exchange available to its employees.

10 ~~(b)(1) To the extent permitted by the U.S. Department of Health and~~
11 ~~Human Services, an~~ An individual may purchase a health benefit plan through
12 the Exchange website, through navigators, by telephone, or directly from a
13 registered carrier under contract with the Vermont Health Benefit Exchange, ~~if~~
14 ~~the carrier elects to make direct enrollment available.~~ A registered carrier
15 enrolling individuals in health benefit plans directly shall comply with all open
16 enrollment and special enrollment periods applicable to the Vermont Health
17 Benefit Exchange.

18 ~~(2) To the extent permitted by the U.S. Department of Health and~~
19 ~~Human Services, a~~ A small employer or an employee of a small employer may
20 purchase a health benefit plan ~~through the Exchange website, through~~

1 navigators, ~~by telephone, or~~ directly from a registered carrier under contract
2 with the Vermont Health Benefit Exchange.

3 (3) No person may provide a health benefit plan to an individual or to a
4 small employer unless the plan complies with the provisions of this subchapter.

5 (c) No person may provide a health benefit plan to an individual or to a
6 small employer unless such person is a registered carrier. The Commissioner
7 of Financial Regulation shall establish, by rule, the minimum financial,
8 marketing, service, and other requirements for registration. Such registration
9 shall be effective upon approval by the Commissioner of Financial Regulation
10 and shall remain in effect until revoked or suspended by the Commissioner of
11 Financial Regulation for cause or until withdrawn by the carrier. A carrier
12 may withdraw its registration upon at least six months' prior written notice to
13 the Commissioner of Financial Regulation. A registration filed with the
14 Commissioner of Financial Regulation shall be deemed to be approved unless
15 it is disapproved by the Commissioner of Financial Regulation within 30 days
16 of filing.

17 (d)(1) Guaranteed issue.

18 (A) A registered carrier shall guarantee acceptance of all individuals,
19 ~~small employers, and employees of small employers, and each dependent of~~
20 ~~such individuals and employees, and their dependents~~ for any health benefit
21 plan offered by the carrier in the individual market, regardless of any

1 outstanding premium amount a subscriber may owe to the carrier for coverage
2 provided during the previous plan year.

3 (B) A registered carrier shall guarantee acceptance of all small
4 employers, their employees, and their employees' dependents for any health
5 benefit plan offered by the carrier in the small group market, regardless of any
6 outstanding premium amount a subscriber may owe to the carrier for coverage
7 provided during the previous plan year.

8 * * *

9 (f)(1) A registered carrier shall use a community rating method acceptable
10 to the Commissioner of Financial Regulation for determining premiums for
11 health benefit plans and shall determine the premiums for the carrier's
12 individual market plans separately from the premiums for its small group
13 market plans. Except as provided in subdivision (2) of this subsection, the
14 following risk classification factors are prohibited from use in rating
15 individuals, small employers, or employees of small employers, or the
16 dependents of such individuals or employees:

17 * * *

18 (k) The guaranteed acceptance provision of subsection (d) of this section
19 shall not be construed to limit an employer's discretion in contracting with ~~his~~
20 ~~or her~~ the employer's employees for insurance coverage.

21 * * *

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on January 1, 2026.