

Part 2 Defined Contribution Arrangements

31A-30-201 Title.

This part is known as "Defined Contribution Arrangements."

Enacted by Chapter 12, 2009 General Session

31A-30-202 Definitions.

For purposes of this part:

- (1) "Defined benefit plan" means an employer group health benefit plan in which:
 - (a) the employer selects the health benefit plan or plans from a single insurer;
 - (b) employees are not provided a choice of health benefit plans on the Health Insurance Exchange; and
 - (c) the employer is subject to contribution requirements in Section 31A-30-112.
- (2) "Defined contribution arrangement":
 - (a) means a defined contribution arrangement employer group health benefit plan that:
 - (i) complies with this part; and
 - (ii) is sold through the Health Insurance Exchange in accordance with Title 63N, Chapter 11, Health System Reform Act; and
 - (b) beginning January 1, 2011, includes an employer choice of either a defined contribution arrangement health benefit plan or a defined benefit plan offered through the Health Insurance Exchange.
- (3) "Health reimbursement arrangement" means an employer provided health reimbursement arrangement in which reimbursements for medical care expenses are excluded from an employee's gross income under the Internal Revenue Code.
- (4) "Producer" is as defined in Subsection 31A-23a-501(4)(a).
- (5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies under Section 125, Internal Revenue Code, which permits an employee to contribute pre-tax dollars to a health benefit plan.
- (6) "Small employer" is defined in Section 31A-1-301.

Amended by Chapter 283, 2015 General Session

31A-30-202.6 Dental and vision plans on the defined contribution arrangement market.

- (1) Beginning January 1, 2014, a carrier may offer dental and vision plans in the defined contribution arrangement market.
- (2)
 - (a) A carrier that offers a dental or vision plan in the defined contribution arrangement market is not required to offer the same dental or vision plans outside the defined contribution arrangement market and does not have to use the same rating and underwriting practices in and out of the defined contribution arrangement market.
 - (b) If a carrier offers a dental or vision plan in the defined contribution arrangement market, the carrier shall allow an employee of a small employer group to enroll in a dental and vision plan in accordance with Subsection (3).
- (3)

- (a) A small employer group shall participate in a defined contribution arrangement and meet participation requirements for the defined contribution arrangement before the employer may elect to offer its employees dental or vision plans under Subsection (3)(b).
- (b) A small employer who meets the requirements of Subsection (3)(a) may elect to offer its employees:
 - (i) a dental plan offered in the defined contribution arrangement market;
 - (ii) a vision plan offered in the defined contribution arrangement market; or
 - (iii) both a vision plan and a dental plan offered in the defined contribution arrangement market.
- (4) An employee whose employer has offered its employees a defined contribution medical plan and met participation requirements under Subsection (3)(a) may elect to enroll, or not enroll, in the dental and vision plan selected by the employer.
- (5) An employer's small group must meet participation requirements established by the commissioner by administrative rule for each dental or vision plan selected by an employer under Subsection (3).

Enacted by Chapter 341, 2013 General Session

31A-30-203 Eligibility for defined contribution arrangement market -- Enrollment.

- (1)
 - (a) An eligible small employer may choose to participate in:
 - (i) the defined contribution arrangement market in the Health Insurance Exchange under this part; or
 - (ii) the traditional defined benefit market under Part 1, Individual and Small Employer Group.
 - (b) A small employer may choose to offer its employees one of the following through the defined contribution arrangement market in the Health Insurance Exchange:
 - (i) a defined contribution arrangement health benefit plan; or
 - (ii) a defined benefit plan.
 - (c) Defined contribution arrangement health benefit plans are employer group health plans individually selected by an employee of an employer.
- (2)
 - (a) Participating insurers shall offer to accept all eligible employees of an employer described in Subsection (1), and their dependents, at the same level of benefits as anyone else who has the same health benefit plan in the defined contribution arrangement market on the Health Insurance Exchange.
 - (b) A participating insurer may:
 - (i) request an employer to submit a copy of the employer's quarterly wage list to determine whether the employees for whom coverage is provided or requested are bona fide employees of the employer; and
 - (ii) deny or terminate coverage if the employer refuses to provide documentation requested under Subsection (2)(b)(i).

Amended by Chapter 400, 2011 General Session

31A-30-204 Employer election -- Defined benefit -- Defined contribution arrangements -- Responsibilities.

- (1)

- (a) An employer participating in the defined contribution arrangement market on the Health Insurance Exchange shall make an initial election to offer its employees either a defined benefit plan or a defined contribution arrangement health benefit plan.
 - (b) If an employer elects to offer a defined benefit plan:
 - (i) the employer or the employer's producer shall enroll the employer in the Health Insurance Exchange;
 - (ii) the employees shall submit the uniform application required for the Health Insurance Exchange; and
 - (iii) the employer shall select the defined benefit plan in accordance with Section 31A-30-208.
 - (c) When an employer makes an election under Subsections (1)(a) and (b):
 - (i) the employer may not offer its employees a defined contribution arrangement health benefit plan; and
 - (ii) the employees may not select a defined contribution arrangement health benefit plan in the Health Insurance Exchange.
 - (d) If an employer elects to offer its employees a defined contribution arrangement health benefit plan, the employer shall comply with the provisions of Subsections (2) through (5).
- (2)
- (a)
 - (i) An employer that chooses to participate in a defined contribution arrangement health benefit plan may not offer to an employee a health benefit plan that is not a defined contribution arrangement health benefit plan in the Health Insurance Exchange.
 - (ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit policies such as dental or vision coverage, or other types of federally qualified savings accounts for health care expenses.
 - (b)
 - (i) To the extent permitted by Sections 31A-1-301, 31A-30-112, and 31A-30-206, and the risk adjustment plan adopted under Section 31A-42-204, the employer reserves the right to determine:
 - (A) the criteria for employee eligibility, enrollment, and participation in the employer's health benefit plan; and
 - (B) the amount of the employer's contribution to that plan.
 - (ii) The determinations made under Subsection (2)(b) may only be changed during periods of open enrollment.
- (3) An employer that chooses to establish a defined contribution arrangement health benefit plan to provide a health benefit plan for its employees shall:
- (a) establish a mechanism for its employees to use pre-tax dollars to purchase a health benefit plan from the defined contribution arrangement market on the Health Insurance Exchange created in Section 63N-11-104, which may include:
 - (i) a health reimbursement arrangement;
 - (ii) a Section 125 Cafeteria plan; or
 - (iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is excluded or deducted from gross income under the Internal Revenue Code;
 - (b) before the employee's health benefit plan selection period:
 - (i) inform each employee of the health benefit plan the employer has selected as the default health benefit plan for the employer group;
 - (ii) offer each employee a choice of any of the defined contribution arrangement health benefit plans available through the defined contribution arrangement market on the Health Insurance Exchange; and

- (iii) notify the employee that the employee will be enrolled in the default health benefit plan selected by the employer and payroll deductions initiated for premium payments, unless the employee, before the employee's selection period ends:
 - (A) selects a different defined contribution arrangement health benefit plan available in the Health Insurance Exchange;
 - (B) provides proof of coverage from another health benefit plan; or
 - (C) specifically declines coverage in a health benefit plan.
- (4) An employer shall enroll an employee in the default defined contribution arrangement health benefit plan selected by the employer if the employee does not make one of the choices described in Subsection (3)(b)(iii) before the end of the employee selection period, which may not be less than 14 calendar days.
- (5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an affirmative election under pre-tax payroll deductions for the employer to begin payroll deductions for health benefit plan premiums.

Amended by Chapter 283, 2015 General Session

31A-30-206 Minimum participation and contribution levels -- Premium payments.

An insurer who offers a health benefit plan for which an employer has established a defined contribution arrangement under the provisions of this part:

- (1) may not:
 - (a) establish an employer minimum contribution level for the health benefit plan premium under Section 31A-30-112, or any other law; or
 - (b) discontinue or non-renew a policy under Subsection 31A-30-107(4) for failure to maintain a minimum employer contribution level;
- (2) shall accept premium payments for an enrollee from multiple sources through the Internet portal, including:
 - (a) government assistance programs;
 - (b) contributions from a Section 125 Cafeteria plan, a health reimbursement arrangement, or other qualified mechanism for pre-tax payments established by any employer of the enrollee;
 - (c) contributions from a Section 125 Cafeteria plan, a health reimbursement arrangement, or other qualified mechanism for pre-tax payments established by an employer of a spouse or dependent of the enrollee; and
 - (d) contributions from private sources of premium assistance; and
- (3) may require, as a condition of coverage, a minimum participation level for eligible employees of an employer, which for purposes of the defined contribution arrangement market may not exceed 75% participation.

Amended by Chapter 297, 2011 General Session

31A-30-207 Rating and underwriting restrictions for health plans in the defined contribution arrangement market.

- (1) Except as provided in Subsection (2), rating and underwriting restrictions for defined contribution arrangement health benefit plans offered in the Health Insurance Exchange shall be in accordance with Section 31A-30-106.1, and the plan adopted under Chapter 42, Defined Contribution Risk Adjuster Act.

- (2) Notwithstanding Subsections 31A-30-106.1(9)(b)(ii) and (iii), a carrier offering a defined contribution arrangement in the Health Insurance Exchange under this part shall calculate rates based on a family tier rating structure that includes four tiers in compliance with Subsection 31A-30-106.1(9)(b)(i).
- (3) All insurers who participate in the defined contribution market shall:
 - (a) participate in the risk adjuster mechanism developed under Chapter 42, Defined Contribution Risk Adjuster Act for all defined contribution arrangement health benefit plans;
 - (b) provide the risk adjuster board with:
 - (i) an employer group's risk factor; and
 - (ii) carrier enrollment data; and
 - (c) submit rates to the exchange that are net of commissions.
- (4) When an employer group enters the defined contribution arrangement market and the employer group has a health plan with an insurer who is participating in the defined contribution arrangement market, the risk factor applied to the employer group when it enters the defined contribution arrangement market may not be greater than the employer group's renewal risk factor for the same group of covered employees and the same effective date, as determined by the employer group's insurer.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-30-208 Enrollment for defined contribution arrangements.

- (1) An insurer offering a health benefit plan in the defined contribution arrangement market:
 - (a) shall allow an employer to enroll in a small employer defined contribution arrangement plan; and
 - (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined Contribution Risk Adjuster Act, and Title 63N, Chapter 11, Health System Reform Act.
- (2)
 - (a) An insurer may enter or exit the defined contribution arrangement market on January 1 of each year.
 - (b) An insurer may offer new or modify existing products in the defined contribution arrangement market:
 - (i) on January 1 of each year;
 - (ii) when required by changes in other law; and
 - (iii) at other times as established by the risk adjuster board created in Section 31A-42-201.
 - (c) An insurer shall give the department, the Health Insurance Exchange, and the risk adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or (b).

Amended by Chapter 283, 2015 General Session

31A-30-209 Insurance producers and the Health Insurance Exchange.

- (1) A producer may be listed on the Health Insurance Exchange as a credentialed producer if the producer is designated as a credentialed agent for the Health Insurance Exchange in accordance with Subsection (2).
- (2) A producer whose license under this title authorizes the producer to sell accident and health insurance may be credentialed by the Health Insurance Exchange and may sell any product on the Health Insurance Exchange, if the producer:
 - (a) is an appointed producer with:

- (i) all carriers that offer a plan in the defined contribution market on the Health Insurance Exchange; and
 - (ii) at least one carrier that offers a dental plan on the Health Insurance Exchange; and
 - (b) completes each year the Health Insurance Exchange training.
- (3) A carrier shall appoint a producer to sell the carrier's products in the defined contribution arrangement market of the Health Insurance Exchange, within 30 days of the notice required in Subsection (3)(b), if:
- (a) the producer is currently appointed by a majority of the carriers in the Health Insurance Exchange to sell products either outside or inside of the Health Insurance Exchange; and
 - (b) the producer informs the carrier that the producer is:
 - (i) applying to be appointed to the defined contribution arrangement market in the Health Insurance Exchange;
 - (ii) appointed by a majority of the carriers in the defined contribution arrangement market in the Health Insurance Exchange;
 - (iii) willing to complete training regarding the carrier's products offered on the defined contribution arrangement market in the Health Insurance Exchange; and
 - (iv) willing to sign the contracts and business associate's agreements that the carrier requires for appointed producers in the Health Insurance Exchange.

Amended by Chapter 138, 2016 General Session

31A-30-210 State contract requirements -- Employer default plans.

- (1) This section applies to an employer who is required to offer its employees a health benefit plan as a condition of qualifying for a state contract under:
- (a) Section 17B-2a-818.5;
 - (b) Section 19-1-206;
 - (c) Subsection 63A-5-205(3);
 - (d) Section 63C-9-403;
 - (e) Section 72-6-107.5; and
 - (f) Section 79-2-404.
- (2) An employer described in Subsection (1) shall, when selecting the default plan required in Section 31A-30-204, select a default plan that is "qualified health insurance coverage" as defined in the sections listed in Subsections (1)(a) through (f).

Enacted by Chapter 229, 2010 General Session

31A-30-211 Insurer disclosure.

- (1)
- (a) A carrier shall provide an employer and the employer's producer with premium renewal rates at least 60 days before the group's renewal date for a plan offered under Part 1, Individual and Small Employer Group.
 - (b) The Health Insurance Exchange shall provide an employer and the employer's producer with premium renewal rates at least 60 days before the group's renewal date for a plan offered under Part 2, Defined Contribution Arrangements.
- (2) An insurer does not have to provide additional notice of premium renewal rates to the employer or the employer's producer if the Health Insurance Exchange provides notice in accordance with Subsection (1)(b).

Amended by Chapter 290, 2014 General Session
Amended by Chapter 300, 2014 General Session