

**[Colo. Rev. Stat. § 10-16-105.2.]**

§ 10-16-105.2. Small employer health insurance availability program: Colorado Health Care Coverage Act

(1) (a) Except as provided in paragraphs (b) and (d) of this subsection (1), this article applies to any health benefit plan that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(I) Any portion of the premium or benefit is paid by or on behalf of a small employer;

(II) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of a small employer for any portion of the premium;

(III) The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 106, 125, or 162 of the federal "Internal Revenue Code of 1986", as amended, except as provided in paragraph (d) of this subsection (1); or

(IV) The plan is marketed to individual employees through an employer or at a place of business, except as otherwise allowed by rule. The division of insurance shall promulgate a rule to allow, with the permission of or at the request of the employer:

(A) Agents to market health benefit plans through an employer or at an employer's place of business to such employer's ineligible employees;

(B) Small employer carriers to market individual health benefit plans through an employer or at an employer's place of business to such employer's ineligible employees and to dependents of eligible employees when the carrier has group coverage in place with the employer.

(b) The provisions of this article shall not apply to a multiple employer health trust, as set forth in section 10-3-903.5 (7)(b), or a multiple employer welfare arrangement, as set forth in section 10-3-903.5 (7)(c).

(c) Repealed.

(d) A plan shall not be subject to the small group provisions of this article if the premium for the plan is paid for through a section 125 plan or program of the federal "Internal Revenue Code of 1986", as amended, the employer makes no contribution to the section 125 plan or program, the employer does not have in place an employer-sponsored health benefit plan, and the employer does not pay for any portion of the premium or benefit paid.

(1.5) Notwithstanding any other provision of law, a small employer that does not have, and has not had in the previous twelve months, a small group health benefit plan providing coverage to its employees under this article may reimburse an employee, whether through wage adjustments or health reimbursement arrangements, for any portion of the premium for a health coverage plan.

(2) (a) Except as provided in paragraph (b) of this subsection (2), carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this article shall apply as if all health benefit plans delivered or issued for delivery to small employers in this state by such affiliated carriers were issued by one carrier.

(b) An affiliated carrier that is a health maintenance organization having a certificate of authority under this article may be considered to be a separate carrier for purposes of this subsection (2).

(c) Part 7 of article 3 of this title applies if a small employer carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to small employers in this state.

(3) and (4) Repealed.