

A RESOLUTION

22-657

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 13, 2018

To declare the existence of an emergency with respect to the need to protect and enhance the affordability and stability of premiums in the individual and small group health insurance markets by providing new protections to consumers who obtain insurance from multiple employer welfare arrangements and the short-term limited duration health insurance market.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Health Insurance Marketplace Improvement Emergency Declaration Resolution of 2018”.

Sec. 2. (a) In June 2018, the United States Department of Labor issued a final rule that significantly changed the manner in which association health plans (“AHPs”) are regulated. The rule makes it much easier for an association to be considered a single multi-employer plan under the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 829; 29 U.S.C. § 1002) (. If so considered, AHPs will not have to comply with many of the most important consumer protections provided by the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; 42 U.S.C. § 18001, note), as amended by the Health Care and Education Reconciliation Act of 2010, approved March 30, 2010 (124 Stat. 1029; 42 U.S.C. § 1305, note) (“ACA”), including provisions requiring essential health benefits and rating rules codified in the law.

(b) In August 2018, the United States Departments of Health and Human Services, Labor, and Treasury issued a final rule to dramatically expand the time individuals may use short-term, limited-duration (“STLD”) health plans. The rule enlarges the maximum duration of these plans from 3 months to 36 months. Short-term plans do not have to comply with the market reforms of the ACA, and insurers are allowed to charge higher premiums based on health status, exclude coverage for pre-existing conditions, require higher out-of-pocket cost sharing, and opt not to cover entire categories of benefits.

(c) Both the Mayor and the Council memorialized their objections prior to the finalization of these rules in a comment letter sent to the U.S. Secretary of Labor. This missive explained the detrimental effects that each of these federal rules will have on health care coverage in the District and noted the potential destabilizing effects of the proposed rules on the District’s insurance market.

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(d) The federal rules on AHPs and STLD health plans take effect on September 1, 2018 and October 2, 2018, respectively, and could adversely impact the 2019 individual and small group market premiums. The Council must therefore act immediately to protect consumers from the negative effects of these newly-authorized insurance products and to prevent damage to the District's individual and small group health insurance markets.

Sec 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Health Insurance Marketplace Improvement Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.