

Bulletin 307

Employee Leasing Arrangements and the Small Group Health Law

The purpose of this Bulletin is to clarify that client companies in employee leasing arrangements are considered employers for purposes of eligibility for coverage under the small group health insurance law, 24-A M.R.S.A. § 2808-B(1)(D).

Under Maine law, the allocation of "employer" rights and responsibilities between employee leasing companies and their clients is codified at 32 M.R.S.A. § 14055 for various enumerated insurance purposes. Health insurance is governed by 32 M.R.S.A. § 14055(1)(A), which provides that if the leasing company is the policyholder in a group insurance plan, it is considered an "other group" within the meaning of 24-A M.R.S.A. § 2808. The effect of classifying the leasing company as an "other group," rather than as an "employee group" within the meaning of 24-A M.R.S.A. § 2804, is to treat each client company's workforce as a "subgroup" under such a policy within the meaning of 24-A M.R.S.A. § 2808-B(1)(H). The Legislature's intent to treat each client company as a separate employer for health insurance purposes is reinforced by the provisions of 32 M.R.S.A. § 14055(1)(A) and 24-A M.R.S.A. § 6603-A which provide that if an employee leasing company provides its own risk-bearing employee benefit plan, that plan is considered a multiple-employer plan.

Therefore, if an insurer issues a group health insurance policy to an employee leasing company whose clients have operations in Maine, the policy must comply with the rating requirements and other applicable requirements of the small group law, 24-A M.R.S.A. § 2808-B, to the extent that it provides coverage to client companies with 50 or fewer eligible workers.

In addition, if a client company has a discrete and identifiable workforce, and otherwise qualifies as an "eligible employer" within the meaning of 24-A M.R.S.A. § 2808-B(1)(D), that client company is entitled to guaranteed issuance of small group health coverage to the same extent as any other small employer in Maine, even though some or all of the covered workforce consists of leased employees.

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NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and rules and to contact the Life and Health Division of the Bureau of Insurance at (207) 624-8475 if they need additional information.