



SENATE BILL 86: Small Business Health Care Act.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	July 31, 2019
Introduced by:	Sens. Bishop, Krawiec, Edwards	Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	PCS to Third Edition S86-CSBC-75		

OVERVIEW: *The Proposed Committee Substitute to Senate Bill 86 would establish standards for association health plans (AHPs) and fully-insured Path 2 MEWAs.*

CURRENT LAW: Currently, Multiple Employment Welfare Arrangements (MEWAs) are regulated by Article 49 of Chapter 58. Under current law, an association of employers that share the same trade or line of business and that exists for a purpose other than obtaining insurance, as well as meeting other criteria, can qualify as a MEWA and offer its member employers insurance products that are regulated as group health insurance. These associations can also self-insure. Sole proprietorships cannot qualify as employers to obtain an AHP or self-insure through a MEWA. Under current law, insurers may not provide stop loss insurance to an employer with fewer than 26 employees.

BILL ANALYSIS: The PCS to Senate Bill 86 would create a new Article 50A in Chapter 58 to regulate AHPs and MEWAs.

Section 1 of the bill would create standards for fully-insured group health insurance plans offered to Path 2 MEWAs.

- G.S. 58-50A-1 would create definitions for "employer member," "employee welfare benefit plan," "Multiple Employer Welfare Arrangement (MEWA)," "Path 2 MEWA," and "sponsoring association."
 - Path 2 MEWAs would be required to be formed by sponsoring associations that have certain corporate governance standards and have individual employer members who share a commonality of interest based on either trade or geography.
 - Sponsoring associations would be deemed to be large employers.
- G.S. 58-50A-5 would require sponsoring associations to comply with Chapter 58, regardless of where they are domiciled.
- G.S. 58-50A-10 would prohibit insurers from issuing group health plans to a sponsoring association unless the sponsoring association qualified as a Path 2 MEWA.
- G.S. 58-50A-15 would prohibit health plans offered by a sponsoring association from providing coverage to anyone other than employees, as defined under state or federal law, or spouses and dependents of employees. Sole proprietors would count as employees eligible for coverage under this section.
- G.S. 58-50A-20 would require group health plans offered by a sponsoring association to be:

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- Not offered or advertised to the public.
- Provide a level of coverage equal to or greater than sixty percent (60%) of the actuarial value of allowed costs for covered benefits.
- Provide coverage for hospital and physician services.
- Comply with the provisions of G.S. 58-3-150.
- G.S. 58-50A-25 would require sponsoring associations to meet certain solvency requirements:
 - Being established and maintained for at least one year.
 - Have at least 500 individuals eligible for coverage.
 - Require employer members to provide group health coverage to all individuals eligible for coverage for a period of at least one year.
 - Maintain a minimum net worth equal to at least one month's premium.
 - Maintain an adequate plan for protection against insolvency.
- G.S. 58-50A-30 would prohibit insurers and sponsoring associations from making rating distinctions based on health status, preexisting conditions, claims experience, receipt of health care, genetic information, and evidence of insurability.
- G.S. 58-50A-35 would require all individuals receiving coverage through an AHP to pay the same premium, unless a reduction is offered for adherence to programs of health promotion and disease prevention.
- G.S. 58-50A-40 would clarify that sponsoring associations can contact licensed brokers for assistance in obtaining an AHP.

Section 2 of the PCS would recodify existing MEWA statutes into Article 50A.

Section 3 of the PCS would clarify that self-insured MEWAs can be Path 2 MEWAs and that the regulations that currently apply to existing self-insured MEWAs would also apply to Path 2 MEWAs.

Section 4 of the PCS would make conforming changes to G.S. 58-51-80 and G.S. 58-50-115.

Section 5 of the PCS would allow insurers to provide stop loss insurance to employers who have 20 or more employees.

Section 6 of the PCS would grant the Department of Insurance temporary rule-making authority to implement the provisions of this bill.

Section 7 of the PCS would require the Department of Insurance to study the feasibility of seeking a waiver under the Affordable Care Act if the federal Department of Labor rule permitting Path 2 MEWAs is struck down.

Section 8 of the PCS would give the Revisor of Statutes authority to update the General Statutes to reflect the recodification in Section 2.

Section 9 of the PCS is a severability clause.

EFFECTIVE DATE: This act would be effective October 1, 2019, and apply to contracts entered into, amended, or renewed on or after January 1, 2020. Section 7 would be effective when a final judicial order striking down the Department of Labor rule is issued.