

## **SB 255 (Portantino)**

**Health insurance: employer associations: large group health insurance.**

### **PROBLEM**

SB 255 would prevent w-2 commercial freelance employees from losing their existing health insurance coverage, as long as specific conditions are met and the insurance offered is comparable or better than platinum insurance found on the Exchange.

### **BACKGROUND**

The Producers' Health Benefits Plan ("PHBP") is a fully insured, employer sponsored health plan currently providing high quality health benefits at no cost to nearly 1,200 California W-2 common law employees of the television commercial production industry who work on a job by job, production by production basis for multiple employer sponsors of PHBP (referred to in the industry as "freelance" employees or "freelancers") and who, in the course of such employment, are not covered by another group health plan in which the employer participates. These freelancers are neither self-employed nor are they 1099 independent contractors.

In 2018, a new law was enacted that jeopardized the health coverage for these freelance employees covered by PHBP. It appeared the intent of this law was to prevent groups of small businesses and self-employed individuals to form Association Health Plans in order to be regulated under federal law as large-group coverage and avoid ACA requirements such as essential health benefits and premium rating restrictions. Unfortunately, the broad nature of the bill's language applied across the industry and included even the high quality, no cost coverage offered by PHBP.

Contrary to the type of coverages targeted by the 2018 law, PHBP provides fully insured group health insurance to PHBP's covered categories of w-2 freelance production employees that is vastly superior in quality and cost to what is available through state exchanges. This fully insured health coverage is provided to eligible individual freelance production employees at no monthly premium cost and at highly subsidized rates for their dependents. These freelance employees have no ability to qualify for their employers' group health plans ("small" or "large" group) due to the project by project, freelance employment patterns inherent in the commercial production industry and thus PHBP has no impact on the underwriting demographics of the small group insurance market. Therefore, if the law is not changed, over 1,200 California freelance employees and their dependents will lose their health insurance which is now voluntarily paid by their employers and be forced to replace it with self-paid individual coverage at a much higher cost than the employers are able to provide in the large group market.

### **SUMMARY**

SB 255 will prevent w-2 commercial freelance employees from losing their existing high quality insurance coverage as certain conditions are met, including:

- The plan has been in continuous existence since January 1, 2014, as an employee welfare benefit plan.
- The plan provides a level of coverage having an actuarial value or equivalent to the platinum level of coverage available through the California Health

Office of Senator Anthony J. Portantino  
SB 255 Fact Sheet

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## Benefit Exchange

- The plan contract includes coverage of employees, and their dependents, who are employed in designated job categories on a project-by-project basis for one or more participating employers, and who, in the course of that employment, are not covered by another group health care service plan contract in which the employer participates.

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## EXISTING LAW

Existing law provides for the regulation of individual, small employer, and large employer health care service plan contracts and health insurance policies,

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## SUPPORT

Producers Health Benefit Plan

**Version:** 1/29/2021

