



General Assembly

January Session, 2023

**Substitute Bill No. 228**



**AN ACT CONCERNING EMPLOYEES' LOSS OF HEALTH CARE  
COVERAGE AS A RESULT OF A LABOR DISPUTE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-1084 of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2023*):

3 The exchange shall:

4 (1) Administer the exchange for both qualified individuals and  
5 qualified employers;

6 (2) Commission surveys of individuals, small employers and health  
7 care providers on issues related to health care and health care  
8 coverage;

9 (3) Implement procedures for the certification, recertification and  
10 decertification, consistent with guidelines developed by the Secretary  
11 under Section 1311(c) of the Affordable Care Act, and section 38a-1086,  
12 of health benefit plans as qualified health plans;

13 (4) Provide for the operation of a toll-free telephone hotline to  
14 respond to requests for assistance;

15 (5) Provide for enrollment periods, as provided under Section  
16 1311(c)(6) of the Affordable Care Act;

17 (6) Maintain an Internet web site through which enrollees and  
18 prospective enrollees of qualified health plans may obtain  
19 standardized comparative information on such plans including, but  
20 not limited to, the enrollee satisfaction survey information under  
21 Section 1311(c)(4) of the Affordable Care Act and any other  
22 information or tools to assist enrollees and prospective enrollees  
23 evaluate qualified health plans offered through the exchange;

24 (7) Publish the average costs of licensing, regulatory fees and any  
25 other payments required by the exchange and the administrative costs  
26 of the exchange, including information on moneys lost to waste, fraud  
27 and abuse, on an Internet web site to educate individuals on such  
28 costs;

29 (8) On or before the open enrollment period for plan year 2017,  
30 assign a rating to each qualified health plan offered through the  
31 exchange in accordance with the criteria developed by the Secretary  
32 under Section 1311(c)(3) of the Affordable Care Act, and determine  
33 each qualified health plan's level of coverage in accordance with  
34 regulations issued by the Secretary under Section 1302(d)(2)(A) of the  
35 Affordable Care Act;

36 (9) Use a standardized format for presenting health benefit options  
37 in the exchange, including the use of the uniform outline of coverage  
38 established under Section 2715 of the Public Health Service Act, 42  
39 USC 300gg-15, as amended from time to time;

40 (10) Inform individuals, in accordance with Section 1413 of the  
41 Affordable Care Act, of eligibility requirements for the Medicaid  
42 program under Title XIX of the Social Security Act, as amended from  
43 time to time, the Children's Health Insurance Program (CHIP) under  
44 Title XXI of the Social Security Act, as amended from time to time, or  
45 any applicable state or local public program, and enroll an individual  
46 in such program if the exchange determines, through screening of the  
47 application by the exchange, that such individual is eligible for any  
48 such program;

49 (11) Collaborate with the Department of Social Services, to the  
50 extent possible, to allow an enrollee who loses premium tax credit  
51 eligibility under Section 36B of the Internal Revenue Code and is  
52 eligible for HUSKY A or any other state or local public program, to  
53 remain enrolled in a qualified health plan;

54 (12) Establish and make available by electronic means a calculator to  
55 determine the actual cost of coverage after application of any premium  
56 tax credit under Section 36B of the Internal Revenue Code and any  
57 cost-sharing reduction under Section 1402 of the Affordable Care Act;

58 (13) Establish a program for small employers through which  
59 qualified employers may access coverage for their employees and that  
60 shall enable any qualified employer to specify a level of coverage so  
61 that any of its employees may enroll in any qualified health plan  
62 offered through the exchange at the specified level of coverage;

63 (14) Offer enrollees and small employers the option of having the  
64 exchange collect and administer premiums, including through  
65 allocation of premiums among the various insurers and qualified  
66 health plans chosen by individual employers;

67 (15) Grant a certification, subject to Section 1411 of the Affordable  
68 Care Act, attesting that, for purposes of the individual responsibility  
69 penalty under Section 5000A of the Internal Revenue Code, an  
70 individual is exempt from the individual responsibility requirement or  
71 from the penalty imposed by said Section 5000A because:

72 (A) There is no affordable qualified health plan available through  
73 the exchange, or the individual's employer, covering the individual; or

74 (B) The individual meets the requirements for any other such  
75 exemption from the individual responsibility requirement or penalty;

76 (16) Provide to the Secretary of the Treasury of the United States the  
77 following:

78 (A) A list of the individuals granted a certification under  
79 subdivision (15) of this section, including the name and taxpayer  
80 identification number of each individual;

81 (B) The name and taxpayer identification number of each individual  
82 who was an employee of an employer but who was determined to be  
83 eligible for the premium tax credit under Section 36B of the Internal  
84 Revenue Code because:

85 (i) The employer did not provide minimum essential health benefits  
86 coverage; or

87 (ii) The employer provided the minimum essential coverage but it  
88 was determined under Section 36B(c)(2)(C) of the Internal Revenue  
89 Code to be unaffordable to the employee or not provide the required  
90 minimum actuarial value; and

91 (C) The name and taxpayer identification number of:

92 (i) Each individual who notifies the exchange under Section  
93 1411(b)(4) of the Affordable Care Act that such individual has changed  
94 employers; and

95 (ii) Each individual who ceases coverage under a qualified health  
96 plan during a plan year and the effective date of that cessation;

97 (17) Provide to each employer the name of each employee, as  
98 described in subparagraph (B) of subdivision (16) of this section, of the  
99 employer who ceases coverage under a qualified health plan during a  
100 plan year and the effective date of the cessation;

101 (18) Perform duties required of, or delegated to, the exchange by the  
102 Secretary or the Secretary of the Treasury of the United States related  
103 to determining eligibility for premium tax credits, reduced cost-  
104 sharing or individual responsibility requirement exemptions;

105 (19) Select entities qualified to serve as Navigators in accordance

106 with Section 1311(i) of the Affordable Care Act and award grants to  
107 enable Navigators to:

108 (A) Conduct public education activities to raise awareness of the  
109 availability of qualified health plans;

110 (B) Distribute fair and impartial information concerning enrollment  
111 in qualified health plans and the availability of premium tax credits  
112 under Section 36B of the Internal Revenue Code and cost-sharing  
113 reductions under Section 1402 of the Affordable Care Act;

114 (C) Facilitate enrollment in qualified health plans;

115 (D) Provide referrals to the Office of the Healthcare Advocate or  
116 health insurance ombudsman established under Section 2793 of the  
117 Public Health Service Act, 42 USC 300gg-93, as amended from time to  
118 time, or any other appropriate state agency or agencies, for any  
119 enrollee with a grievance, complaint or question regarding the  
120 enrollee's health benefit plan, coverage or a determination under that  
121 plan or coverage; and

122 (E) Provide information in a manner that is culturally and  
123 linguistically appropriate to the needs of the population being served  
124 by the exchange;

125 (20) Review the rate of premium growth within and outside the  
126 exchange and consider such information in developing  
127 recommendations on whether to continue limiting qualified employer  
128 status to small employers;

129 (21) Credit the amount, in accordance with Section 10108 of the  
130 Affordable Care Act, of any free choice voucher to the monthly  
131 premium of the plan in which a qualified employee is enrolled and  
132 collect the amount credited from the offering employer;

133 (22) Consult with stakeholders relevant to carrying out the activities  
134 required under sections 38a-1080 to 38a-1090, inclusive, including, but

135 not limited to:

136 (A) Individuals who are knowledgeable about the health care  
137 system, have background or experience in making informed decisions  
138 regarding health, medical and scientific matters and are enrollees in  
139 qualified health plans;

140 (B) Individuals and entities with experience in facilitating  
141 enrollment in qualified health plans;

142 (C) Representatives of small employers and self-employed  
143 individuals;

144 (D) The Department of Social Services; and

145 (E) Advocates for enrolling hard-to-reach populations;

146 (23) Meet the following financial integrity requirements:

147 (A) Keep an accurate accounting of all activities, receipts and  
148 expenditures and annually submit to the Secretary, the Governor, the  
149 Insurance Commissioner and the General Assembly a report  
150 concerning such accountings;

151 (B) Fully cooperate with any investigation conducted by the  
152 Secretary pursuant to the Secretary's authority under the Affordable  
153 Care Act and allow the Secretary, in coordination with the Inspector  
154 General of the United States Department of Health and Human  
155 Services, to:

156 (i) Investigate the affairs of the exchange;

157 (ii) Examine the properties and records of the exchange; and

158 (iii) Require periodic reports in relation to the activities undertaken  
159 by the exchange; and

160 (C) Not use any funds in carrying out its activities under sections

161 38a-1080 to 38a-1089, inclusive, that are intended for the administrative  
162 and operational expenses of the exchange, for staff retreats,  
163 promotional giveaways, excessive executive compensation or  
164 promotion of federal or state legislative and regulatory modifications;

165 (24) (A) Seek to include the most comprehensive health benefit  
166 plans that offer high quality benefits at the most affordable price in the  
167 exchange, (B) encourage health carriers to offer tiered health care  
168 provider network plans that have different cost-sharing rates for  
169 different health care provider tiers and reward enrollees for choosing  
170 low-cost, high-quality health care providers by offering lower  
171 copayments, deductibles or other out-of-pocket expenses, and (C) offer  
172 any such tiered health care provider network plans through the  
173 exchange;

174 (25) Report at least annually to the General Assembly on the effect  
175 of adverse selection on the operations of the exchange and make  
176 legislative recommendations, if necessary, to reduce the negative  
177 impact from any such adverse selection on the sustainability of the  
178 exchange, including recommendations to ensure that regulation of  
179 insurers and health benefit plans are similar for qualified health plans  
180 offered through the exchange and health benefit plans offered outside  
181 the exchange. The exchange shall evaluate whether adverse selection is  
182 occurring with respect to health benefit plans that are grandfathered  
183 under the Affordable Care Act, self-insured plans, plans sold through  
184 the exchange and plans sold outside the exchange; [and]

185 (26) Consult with the Commissioner of Social Services, Insurance  
186 Commissioner and Office of Health Strategy, established under section  
187 19a-754a for the purposes set forth in section 19a-754c; and

188 (27) Provide for a special enrollment period for individuals whose  
189 health care coverage is terminated by an employer as a result of a labor  
190 dispute.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2023</i>	38a-1084
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***Statement of Legislative Commissioners:***

In Section 1(27) "who lose health benefits provided by an employer" was changed to "whose health care coverage is terminated by an employer" for consistency with standard drafting conventions.

**LAB**      *Joint Favorable Subst. -LCO*