



**“Health Insurance for the Uninsured”**  
**Healthy NY Toll Free: 1-866-HEALTHY NY (1-866-432-5849)**

## **Healthy NY Program Guidance**

The following guidance is intended to help health insurers ensure that only legitimate small employer groups are enrolling in the Healthy NY program.

HMOs and participating insurers (Health Plans) are obligated to ensure that they accept only legitimate employer groups for coverage. As Health Plans examine their fraud detection programs as required pursuant to New York Insurance Law (NYIL) section 409, they have requested that the Department of Financial Services (DFS) clarify Healthy NY program rules for small group coverage. As discussed below, the rules for Healthy NY small groups work together with other rules for small groups.

In general terms, the Healthy NY employer program is intended for eligible small employers (50 or fewer employees) that have not provided coverage to their employees in the past year. Certain eligibility and participation requirements apply in order to enroll in Healthy NY inasmuch as State reinsurance funding helps lower premiums.

Under the Insurance Law, employer groups are among the permissible groups that may purchase health insurance (NYIL § 4235(c)(1)A)). The Insurance Law also specifies that an employer can insure all employees or those within a class of employees determined by conditions pertaining to employment (NYIL § 4235(c)(1)(A)). Conditions pertaining to employment include geographic situs of employment, earning, method of compensation, hours and occupational duties (see 11 NYCRR 52.18(f)).

The Healthy NY program rules allow employers to include part time workers (defined as working less than 20 hours per week) when applying for coverage (11 NYCRR 362). The program's rules do not impose a uniform minimum number of hours that a person must work each week in order to be eligible for coverage, however, the rules are not intended to interfere with a Health Plan's separate ability to impose a requirement of a minimum number of hours worked (11 NYCRR § 360.3(a)(3)). Such requirements are often necessary for ensuring the legitimacy of the groups insured by the Health Plan.

Covered employees must be valid employees of the group contract holder. They cannot be persons who pay a fee in order to join as an employee. Likewise, they cannot be added to the employee roster for the primary purpose of accessing health insurance. Healthy NY employer groups should be given the same level of scrutiny as other employer groups.

Thank you for your continued support and cooperation.