

# Senate File 2412 - Introduced

SENATE FILE 2412

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2197)

(SUCCESSOR TO SSB 3047)

## A BILL FOR

1 An Act relating to health insurance and the insurance division  
2 of the department of commerce, and providing for fees.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1      Section 1. NEW SECTION.    **505.18A State innovation waiver.**

2      1. The commissioner may develop by rule a state innovation  
3 waiver pursuant to section 1332 of the federal Patient  
4 Protection and Affordable Care Act, Pub. L. No. 111-148.

5      2. The commissioner may submit an application on behalf of  
6 the state to the United States secretary of health and human  
7 services and the United States secretary of the treasury for  
8 the state innovation waiver developed pursuant to subsection 1.

9      3. If a state innovation waiver submitted pursuant to  
10 subsection 2 is approved by the United States Secretary of  
11 health and human services and the United States secretary  
12 of the treasury, the commissioner may implement the state  
13 innovation waiver in a manner consistent with applicable state  
14 and federal law.

15      4. The commissioner may adopt emergency rules under section  
16 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph  
17 "b", to implement the provisions of this section and the rules  
18 shall be effective immediately upon filing unless a later date  
19 is specified in the rules. Any rules adopted in accordance  
20 with this section shall also be published as a notice of  
21 intended action as provided in section 17A.4.

22      Sec. 2. Section 507A.4, subsection 9, Code 2020, is amended  
23 by striking the subsection and inserting in lieu thereof the  
24 following:

25      9. Transactions involving a multiple employer welfare  
26 arrangement as defined in section 3 of the federal Employee  
27 Retirement Income Security Act of 1974, 29 U.S.C. §1002,  
28 paragraph 40, or a multiple employer welfare arrangement formed  
29 as an association health plan pursuant to 29 C.F.R. pt. 2510,  
30 that meets the requirements of chapter 513D.

31      Sec. 3. Section 509.1, subsection 9, Code 2020, is amended  
32 to read as follows:

33      9. A policy of group health insurance coverage issued to an  
34 ~~associated health plan~~ a multiple employer welfare arrangement  
35 pursuant to ~~section 513D.1~~ chapter 513D that is subject to

1 regulation by the commissioner.

2 Sec. 4. Section 509.19, subsection 2, paragraph d, Code  
3 2020, is amended to read as follows:

4 d. A multiple employer welfare arrangement, as defined  
5 in section 3 of the federal Employee Retirement Income  
6 Security Act of 1974, 29 U.S.C. §1002(40), paragraph 40, or a  
7 multiple employer welfare arrangement formed as an association  
8 health plan pursuant to 29 C.F.R. pt. 2510, that meets the  
9 requirements of ~~section 507A.4, subsection 9, paragraph "a"~~  
10 chapter 513D.

11 Sec. 5. Section 513D.1, Code 2020, is amended by striking  
12 the section and inserting in lieu thereof the following:

13 **513D.1 Multiple employer welfare arrangements and association**  
14 **health plans.**

15 1. As used in this chapter, unless the context otherwise  
16 requires:

17 a. "AHP" means a multiple employer welfare arrangement  
18 formed as an association health plan pursuant to 29 C.F.R. pt.  
19 2510.

20 b. "Commissioner" means the commissioner of insurance.

21 c. "MEWA" means a multiple employer welfare arrangement as  
22 defined in section 3 of the federal Employee Retirement Income  
23 Security Act of 1974, 29 U.S.C. §1002, paragraph 40.

24 2. An AHP or MEWA that offers a plan to or maintains a group  
25 health plan for any resident of this state shall be subject to  
26 the jurisdiction of the commissioner and shall comply with all  
27 of the following requirements:

28 a. The AHP or MEWA must be administered by an insurer  
29 authorized to do the business of insurance in this state or  
30 an authorized third-party administrator that holds a current  
31 certificate of registration pursuant to section 510.21.

32 b. The AHP or MEWA must be established by a trade,  
33 industry, or professional association of employers that has a  
34 constitution or bylaws, is organized and maintained in good  
35 faith, and has membership stability as defined by rules adopted

1 by the commissioner.

2     *c.* The AHP or MEWA must register with the commissioner and  
3 obtain and maintain a certificate of registration issued by the  
4 commissioner.

5     *d.* The AHP or MEWA shall comply with all rules and solvency  
6 standards established by rules adopted by the commissioner.

7     3. An AHP or MEWA that does not meet the solvency standards  
8 pursuant to subsection 2, paragraph "*d*", shall be subject to  
9 chapter 507C.

10     4. An AHP or MEWA that meets all of the requirements of  
11 subsection 2 shall not be considered any of the following:

12     *a.* An insurance company or association of whatever kind or  
13 character pursuant to section 432.1.

14     *b.* A member of the Iowa individual health benefit  
15 reinsurance association pursuant to section 513C.10, subsection  
16 1.

17     *c.* A member insurer of the Iowa life and health insurance  
18 guaranty association pursuant to section 508C.5.

19     5. An AHP or MEWA that is registered with the commissioner  
20 pursuant to subsection 2, paragraph "*c*", shall annually file  
21 with the commissioner on or before March 1 a copy of the report  
22 required to be filed by the AHP or MEWA with the United States  
23 department of labor pursuant to 29 C.F.R. §2520.101-2.

24     6. An AHP or MEWA that is registered with the commissioner  
25 pursuant to subsection 2, paragraph "*c*", shall annually file  
26 with the commissioner a report on or before March 1 for the  
27 preceding calendar year. The annual report shall contain the  
28 information and be in a form and manner as prescribed by the  
29 commissioner.

30     7. A foreign or domestic AHP or MEWA doing business in the  
31 state shall pay fees as prescribed by the commissioner unless  
32 otherwise provided by law.

33     8. A MEWA that is recognized as tax-exempt under Internal  
34 Revenue Code section 501(c)(9) and that is registered with the  
35 commissioner prior to January 1, 2018, shall not be considered

1 an AHP unless the MEWA affirmatively elects to be treated as  
2 an AHP.

3 Sec. 6. Section 513D.2, subsection 1, Code 2020, is amended  
4 to read as follows:

5 1. The commissioner of insurance shall adopt rules, as  
6 necessary, pursuant to chapter 17A to administer this chapter.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with  
9 the explanation's substance by the members of the general assembly.

10 This bill relates to health insurance and the insurance  
11 division of the department of commerce.

12 The bill authorizes the commissioner of insurance to develop  
13 by rule a state innovation waiver (waiver) pursuant to section  
14 1332 of the federal Patient Protection and Affordable Care Act,  
15 Pub. L. No. 111-148, and to submit an application on behalf  
16 of the state to the United States secretary of health and  
17 human services and the United States secretary of the treasury  
18 (secretaries) for the waiver. If a waiver is approved by the  
19 secretaries, the commissioner is authorized to implement the  
20 waiver in a manner consistent with applicable state and federal  
21 law. The bill authorizes the commissioner to adopt emergency  
22 rules to implement the waiver and the rules are to be effective  
23 immediately upon filing unless a later date is specified in the  
24 rules. Any rules that are adopted must also be published as a  
25 notice of intended action as provided in Code section 17A.4.

26 The bill amends Code section 507A.4 and provides that Code  
27 chapter 507A (unauthorized insurers) does not apply to a  
28 multiple employer welfare arrangement (MEWA) or a MEWA formed  
29 as an association health plan (AHP) that meets the requirements  
30 of Code chapter 513D. The bill strikes current Code section  
31 513D.1 (association health plans) and replaces it with new  
32 provisions which detail the requirements for MEWAs and AHPs  
33 that offer a plan to or that maintain a group health plan for  
34 any resident of Iowa. An "AHP" is defined in the bill as a MEWA  
35 formed as an association health plan pursuant to 29 C.F.R. pt.

1 2510. A "MEWA" is defined in the bill as a multiple employer  
2 welfare arrangement as defined in section 3 of the federal  
3 Employee Retirement Income Security Act of 1974, 29 U.S.C.  
4 §1002, paragraph 40.

5 The bill requires an AHP or MEWA to be administered by either  
6 an insurer authorized to do the business of insurance in this  
7 state, or by an authorized third-party administrator that holds  
8 a current certificate of registration. The AHP or MEWA must be  
9 established by a trade, industry, or professional association  
10 of employers that has a constitution or bylaws, is organized  
11 and maintained in good faith, and has membership stability as  
12 defined by rules adopted by the commissioner. The AHP or MEWA  
13 must register with the commissioner and obtain and maintain a  
14 certificate of registration issued by the commissioner. The  
15 bill requires that an AHP or MEWA must comply with all rules  
16 and solvency standards established by rules adopted by the  
17 commissioner, and failure to do so subjects the AHP or MEWA  
18 to Code chapter 507C (insurers supervision, rehabilitation,  
19 and liquidation). An AHP or MEWA that meets all of the  
20 requirements is not considered an insurance company or  
21 association of whatever kind or character under Code section  
22 432.1 (tax on gross premiums — exclusions), a member of the  
23 Iowa individual health benefit reinsurance association, or a  
24 member insurer of the Iowa life and health insurance guaranty  
25 association.

26 The bill requires AHPs and MEWAs that are registered with  
27 the commissioner to annually file with the commissioner on or  
28 before March 1 a copy of the report required to be filed by  
29 the AHP or MEWA with the United States department of labor  
30 pursuant to 29 C.F.R. §2520.101-2. The AHP and MEWA must also  
31 file an annual report with the commissioner on or before March  
32 1 that covers the preceding calendar year. The annual report  
33 must contain the information and be in a form and manner as  
34 prescribed by the commissioner.

35 A foreign or domestic AHP or MEWA doing business in the

1 state is required by the bill to pay fees as prescribed by the  
2 commissioner unless otherwise provided by law.

3     The bill provides that a MEWA that is recognized as  
4 tax-exempt under Internal Revenue Code section 501(c)(9), and  
5 that is registered with the commissioner prior to January  
6 1, 2018, shall not be considered an AHP unless the MEWA  
7 affirmatively elects to be treated as an AHP.

8     The bill makes conforming changes to Code sections 509.1(9)  
9 and 509.19(2).