

CHAPTER 74
HEALTH CARE ACCESS

Chapter exempt from chapter rescission pursuant to Iowa Code section 17A.7

191—74.1(505) Purpose. The purpose of this chapter is to implement Iowa Code section 505.21 requiring an employer to provide access to health care or health insurance to an employer's eligible employees. The employer shall, at a minimum, make health care information or health insurance information available to the employer's eligible employees by a written referral. However, the employer may also satisfy the health care access requirement by offering or paying for health care or health insurance.

191—74.2(505) Applicability and scope. This chapter shall apply to all employers doing business within the state of Iowa.

191—74.3(505) Definitions. As used in this chapter:

74.3(1) *"Division"* means the insurance division of the state of Iowa.

74.3(2) *"Eligible employee"* means a natural person who is employed in this state for wages by an employer and works on a regular full-time or regular part-time basis. An eligible employee may include a commission salesperson who takes orders or performs services on behalf of a principal and who is paid on the basis of commissions but does not include persons who purchase for their own account for resale.

For purposes of this chapter:

a. An eligible employee does not include a temporary employee which means an employee who works for a limited period of time, or an employee with seasonal, intermittent, internship, trainee, or temporary status.

b. A minor as defined in Iowa Code chapter 599 is not an eligible employee.

c. The following persons engaged in agriculture are not eligible employees:

(1) The spouse of the employer and relatives of either the employer or spouse including relatives employed by a family farm corporation, a family farm partnership or family farm limited liability company.

(2) A person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either.

(3) Neighboring persons engaged in agriculture who are exchanging labor or other services.

d. An independent contractor is not an eligible employee.

e. An individual working in vocational rehabilitation programs and receiving health care coverage through governmental programs is not an eligible employee.

74.3(3) *"Employer"* means a person, as defined in Iowa Code chapter 4, doing business in the state who in this state employs for wages a natural person. The term employer does not include a multiple employer trust or a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or who obtains services from an independent contractor.

191—74.4(505) Access to health care or health insurance for an employee.

74.4(1) Access to health care or health insurance means any of the following:

a. An employer provides a written referral to an eligible employee as to where the eligible employee can receive information concerning health care or health insurance.

b. An employer offers coverage or contributes to health insurance or a health benefit plan.

74.4(2) An employer who provides the eligible employee a written referral, offers coverage or contributes under subrule 74.4(1) to any of the following has satisfied the health care access requirement.

a. Health care coverage through an insurer or health maintenance organization authorized to do business in Iowa.

b. Access to health benefits through a health benefits plan qualified under the federal Employee Retirement Income Security Act of 1974.

c. Joining a health purchasing cooperative as defined in 191 IAC 73 whereby the employees may purchase health insurance offered by several health insurance or health care benefit programs.

74.4(3) To satisfy subrule 74.4(1), paragraph “a,” the employer shall contact a health insurance agent, health insurance carrier, or other health care organization which agrees with the employer to provide information to the eligible employee about health care or health insurance and possible purchase of health care or health insurance. In the event that an eligible employee cannot read or understand English, the employer shall offer assistance to the eligible employee in understanding the written referral. The employer shall provide the information to the eligible employee within a reasonable time of hiring the eligible employee.

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191—74.5(505) Employer participation. The employer shall offer payroll deduction of the eligible employee’s contributions to the health care program or health insurance program to which the employer referred the eligible employee. However, payroll deduction shall occur only if the eligible employee has adequate wages to pay the cost of the health care or health insurance. In the event that the insurance carrier or health care organization does not provide for payment through payroll deduction, an automatic withdrawal from the employee’s savings or checking account shall comply with Iowa Code section 505.21.

191—74.6(505) Violation of chapter. A violation of this chapter may be reported to the market regulation bureau of the division. The division, upon finding that the employer has failed to offer an eligible employee access to health care or health insurance, may do any of the following:

1. Issue a cease and desist order instructing the employer to cure the failure to provide access to health care and desist from future violations of this chapter.
2. Issue an order requiring the employer who has previously been the subject of a cease and desist order to pay an eligible employee’s reasonable health insurance premiums necessary to prevent or cure a lapse in health care coverage due to the employer’s failure to offer access to health care.
3. Assess the reasonable costs of the division’s investigation and enforcement to the employer.

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These rules are intended to implement Iowa Code section 505.21.

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