WEST VIRGINIA CODE: §33-16-2

§33-16-2. Eligible groups.

Any insurer licensed to transact accident and sickness insurance in this state may issue group accident and sickness policies coming within any of the following classifications:

(1) A policy issued to an employer, who shall be considered the policyholder, insuring at least two employees of the employer, for the benefit of persons other than the employer, and conforming to the following requirements:

(A) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment; or

(B) If the premium is paid by the employer and the employees jointly, or by the employees, there shall be no employee participation requirement. The term "employee" as used herein is considered to include the officers, managers and employees of the employer, the partners, if the employer is a partnership, the officers, managers and employees of subsidiary or affiliated corporations of a corporate employer, and the individual proprietors, partners and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract or otherwise. The term "employer" as used herein may include any municipal or governmental corporation, unit, agency or department and the proper officers of any unincorporated municipality or department, as well as private individuals, partnerships and corporations.

(2) A policy issued to an association or to a trust or to the trustees of a fund established, created or maintained for the benefit of members of one or more associations. The association or associations shall have at the issuance of the policy a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least one year; and shall have a Constitution and bylaws that provide that: The association or associations hold regular meetings not less than annually to further the purposes of the members; except for credit unions, the association or associations collect dues or solicit contributions from members; and the members have voting privileges and representation on the governing board and committees. The policy is subject to the following requirements:

(A) The policy may insure members of the association or associations, employees thereof or employees of members or one or more of the preceding or all of any class or classes for the benefit of persons other than the employee's employer.

(B) The premium for the policy shall be paid from:

(i) Funds contributed by the association or associations;

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(ii) Funds contributed by covered employer members;

(iii) Funds contributed by both covered employer members and the association or associations;

(iv) Funds contributed by the covered persons; or

(v) Funds contributed by both the covered persons and the association, associations or employer members.

(C) Except as provided in paragraph (D) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject coverage in writing.

(D) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(E) A small employer, as defined in subdivision (r), section two, article sixteen-d of this chapter, insured under an eligible group policy provided in this subdivision shall also be subject to the marketing and rate practices provisions in article sixteen-d of this chapter.

(3) A policy issued to a bona fide association;

(4) A policy issued to a college, school or other institution of learning or to the head or principal thereof, insuring at least ten students, or students and employees, of the institution;

(5) A policy issued to or in the name of any volunteer fire department, insuring all of the members of the department or all of any class or classes thereof against any one or more of the hazards to which they are exposed by reason of the membership but in each case not less than ten members;

(6) A policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state, to insure any class or classes of individuals that could be insured under the group life policy; and

(7) A policy issued to cover any other substantially similar group which in the discretion of the commissioner may be subject to the issuance of a group accident and sickness policy or contract.

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