



New York State Small Group Guidelines

MVP Health Services Corporation—Effective January 1, 2016

Pending approval from the New York State Department of Financial Services

New York State's definition of small group is 1–100 Full-Time Equivalents (FTE). Solely for purposes of determining whether an employer is a large or small employer, the employer is required to calculate the number of FTEs it employed during the preceding calendar year and count each such FTE as one full-time employee.

To assist you in calculating your groups FTEs, please reference the below materials from the IRS at irs.gov and select *Affordable Care Act* under *Hot Topics*, then *Learn More* under the *Employers* section, and then *Determining if an Employer is an Applicable Large Employer*.

Common Ownership

Groups that have separate entities with multiple Tax ID numbers must combine the total Full Time Equivalents (FTE) for all entities in order to determine whether the group is large or small if the same person or set of people own more than 80 percent of each entity.

Employer Location

To be issued a small group policy, employers must have at least one employee who lives, works, or resides in MVP's service area. MVP will provide coverage for employees outside MVP's service area only if an eligible group has fewer covered employees outside the MVP service area than covered employees in MVP's service area. If an employer has one or more office locations within New York State, the premium rates for each office location will reflect the applicable regional rate. Additional office locations and remote workers outside of New York State will be charged the premium for the New York location with the majority of the in-state employees.

Basic Definition

All common law employees are eligible for health insurance coverage. Common law employees are defined as anyone who performs services for an employer as long as the employer has financial and/or behavioral control for these employees. Leased employees, 1099 employees, officer, director, elected, or appointed official if the employer group is a public entity, a reservist, and union employees may be considered "employees" under this definition and should be included in the group size count.

Minimum Hours Worked

In order to be eligible for MVP Coverage, an eligible employee must work at least 20 hours per week.

Part Time Employees

Employees who work less than 30 hours per week are counted using the Full-Time Equivalent (FTE) counting method. To convert the number of part-time employees to an FTE number, the average monthly aggregate number of hours worked for part time employees is divided by 120. Part time hours are capped at 120 hours per employees per month.

Retirees

Retirees are not "employees" and are not counted in group size.

COBRA

COBRA participants are not included in the FTE calculation for determining group size.

Common Law Employee

For a group health plan to be considered a "group health plan" under the Employee Retirement Income Security Act (ERISA), there must be at least one common law employee enrolled. Pursuant to 29 CFR 2510.2-3(b), an "employee benefit plan" does not exist if no "employees" are covered by the plan. Pursuant to 29 CFR 510.3-1 and 29 CFR 2590.732(d) an "employee" does not include the sole owner of a business or a spouse of the business owner.

Sole Proprietors

Sole Proprietors are only eligible for an MVP individual product; not a group product. When a business is owned only by an individual or an individual and his/her spouse, then these individuals are not considered "employees"; therefore, the benefit plan is not considered a group health plan. As of January 1, 2014, these individuals will need to purchase individual coverage.

Classes of Employees

Classes of employees based on “conditions pertaining to employment” are permitted at the option of the employer. Please note that all FTEs must be used to determine group’s size, regardless of the classes being offered coverage.¹

Examples of permissible classes of employees are:

1. Hours
2. Salaried versus Hourly
3. Geographic Location
4. Directors, Managers, and Shareholders
5. Job duties
6. Earnings

Guaranteed Renewal²

Groups will automatically be renewed unless terminated because of the following:

1. Fraud or misrepresentation of material facts.
2. Failure to meet an insurer’s service area requirements if no employee lives works or resides in service area.
3. Lapsed membership by a participating group in the association if association group coverage.
4. Inability to meet the definition of permissible group under applicable state and federal requirements.
5. Insurer discontinues a class of contracts or withdraws from the market.

Group Fluctuation In Size

Group size determination is made on your group’s renewal. Fluctuation in size of the group mid-year does not affect eligibility.

Guaranteed Availability

All policies must be guaranteed available to groups year-round.³

New Employee Waiting Period

All newly eligible employees will have an enrollment period of at least 30 days.⁴

Open Enrollment Period

Employees are permitted to join the plan, add dependents, or make changes (if applicable) during a 30-day open enrollment period, usually at renewal of the group policy.⁵

Eligible Dependants

Per regulation 11 NYCRR 52.18(e), eligible dependents include the following:

1. Spouses
2. Domestic Partners
3. Dependent Children—children of an employee are covered until age 26 regardless of financial dependence, residency, student status, employment, marital status, or eligibility for other coverage
4. Children for whom the insured is the legal guardian

Family Policies

A family policy shall provide coverage for natural children, adopted children, unmarried disabled children, stepchildren, newborn children, children for whom the employee has legal custody and are chiefly dependent on employee for support.

(Please also see the model language. Visit dfs.ny.gov and select *Insurance Industry*, then *Health*, and then *Model Language*.)

¹ 43 U.S.C. 300gg-1

² 42 U.S.C. 300gg-2, 45 CFR 146.152(a), 45 CFR 146.106 (a), Insurance Law §§ 3221(p) and 4305(j)

³ 43 U.S.C. 300gg-1

⁴ 11 NYCRR 52.70(e)(2)

⁵ 11 NYCRR 52.70(e)(3)

Enrollment Period for Newly Eligible Employees

Newly eligible employees may be enrolled if his or her application is received within 30 days from the initial period of eligibility.⁶

Age 29—Young Adult Optional Extension

The Subscriber's Child may be eligible to purchase his or her own individual coverage under the group's Policy through the age of 29 if he or she:

1. Is under the age of 30;
2. Is not married;
3. Is not insured by or eligible for coverage under an employer-sponsored health benefit plan covering him or her as an employee or member, whether insured or self-insured;
4. Lives, works, or resides in New York State or Our Service Area; and
5. Is not covered by Medicare.

The Child may purchase coverage even if he or she is not financially dependent on his or her parent(s) and does not need to live with his or her parent(s).

The Subscriber's Child may elect this coverage:

1. Within 60 days of the date that his or her coverage would otherwise end due to reaching the maximum age for Dependent coverage, in which case coverage will be retroactive to the date that coverage would otherwise have terminated;
2. Within 60 days of newly meeting the eligibility requirements, in which case coverage will be prospective and start within 30 days of when the Group or the Group's designee receives notice and We receive Premium payment; or
3. During an annual 30-day open enrollment period, in which case coverage will be prospective and will start within 30 days of when the Group or the Group's designee receives notice of election and We receive Premium payment.

The Subscriber or Subscriber's Child must pay the Premium rate that applies to individual coverage. Coverage will be the same as the coverage provided under this Policy. The Child's children are not eligible for coverage under this option.

Special Enrollment Periods

Employees, employees Spouse, or employee's Child can also enroll for coverage within 30 days of the loss of coverage (including COBRA or continuation coverage) in another group health plan if coverage was terminated because the employee, employee's Spouse, or employee's Child are no longer eligible for coverage under the other group health plan due to:

1. Termination of employment;
2. Termination of the other group health plan;
3. Death of the Spouse;
4. Legal separation, divorce, or annulment;
5. Reduction of hours of employment;
6. Employer contributions toward the group health plan were terminated; or
7. A Child no longer qualifies for coverage as a Child under the other group health plan.

We must receive notice and Premium payment within 30 days of the loss of coverage. The effective date of your coverage will depend on when we receive your application. If your application is received between the first and fifteenth day of the month, your coverage will begin on the first day of the following month. If your application is received between the sixteenth day and the last day of the month, your coverage will begin on the first day of the second month.

In addition, Employees, employee's Spouse, or employee's Child, can also enroll for coverage within 60 days of the occurrence of one of the following events:

1. You or Your Spouse, or Your Child loses eligibility for Medicaid or a state child health plan; or
2. You or Your Spouse, or Your Child becomes eligible for Medicaid or a state child health plan.

We must receive notice and Premium payment within 60 days of one of these events. The effective date of your coverage will depend on when we receive your application. If your application is received between the first and fifteenth day of the month, your coverage will begin on the first day of the following month. If your application is received between the sixteenth day and the last day of the month, your coverage will begin on the first day of the second month.

6 11 NYCRR 52.70(e)(3)

Documentation Required for New Sales and Small Group Renewals

New Sales

Properly completed paperwork must be submitted through a broker or directly to MVP by the 25th of a month for coverage to begin the first of the next month.

Renewal

Changes should be submitted through a broker or directly to MVP 30 days prior to the group's renewal date to ensure accurate billing statements and membership ID cards.

Employer Eligibility Documentation

- Form NYS-45 Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return or comparable documentation listing all currently enrolled employees;
- Certificate of Incorporation and payroll records for newly formed business;
- For partnerships, a copy of the most recent 1065 K-1 with income amount stricken;
- New York State Certificate of Assumed Name for groups using a Doing Business As (DBA).

Any business in operation for less than one year who cannot supply the above information, must furnish a letter from their accountant or attorney verifying both ownership of a valid business and that the owner works 20 hours or more per week in that business.

Groups may be required to submit additional documentation. Providing documentation does not guarantee renewal. MVP will review documentation and notify the group if additional information is needed.

Off Cycle Change Requests

Off-cycle changes include any modification to an account's contract terms or benefits at a time other than their renewal/anniversary date, and must be submitted in writing 30 days in advance of the requested change. The group's most recent Form NYS-45 must be attached to the request in order for MVP to approve the request.

Association Coverage

1. Coverage may be issued to Association groups, but the market rules applicable to the underlying membership must apply (e.g., individuals must be issued individual coverage, small groups must be issued small group coverage, and large groups must be issued large group coverage)
2. Association coverage can be contingent on membership in the association, although the coverage itself must be generally available in the applicable market.