

(i) is an employer that on at least 50% of its working days during the preceding calendar [year] QUARTER, employed at least two but not more than 50 eligible employees, the majority of whom are employed in the State; and

(ii) is a person actively engaged in business or is the governing body of:

1. a charter home-rule county established under Article XI-A of the Maryland Constitution;

2. a code home-rule county established under Article XI-F of the Maryland Constitution;

3. a commission county established or operating under Article 25 of the Code; or

4. a municipal corporation established or operating under Article XI-E of the Maryland Constitution.

(2) Notwithstanding paragraph (1)(i) of this subsection:

(i) a person is considered a small employer under this subtitle if the employer did not exist during the preceding calendar year but on at least 50% of the working days during its first year the employer employs at least two but not more than 50 eligible employees and otherwise satisfies the conditions of paragraph (1)(i) of this subsection; and

(ii) if the federal Employee Retirement Income Security Act (ERISA) is amended to exclude employee groups under a specific size, this subtitle shall apply to any employee group size that is excluded from that Act.

(3) In determining the group size specified under paragraph (1)(i) of this subsection:

(i) companies that are affiliated companies or that are eligible to file a consolidated federal income tax return shall be considered one employer; and

(ii) an employee may not be counted who is[:

1. otherwise covered under a public or private health insurance plan or other health benefit arrangement; or

2.] a part-time employee as described in § ~~15-1210(a)(1)(ii)~~ ~~15-1210(A)(2)~~ 15-1210(a)(1)(ii) of this subtitle.

(4) A carrier may request documentation to verify that a person meets the criteria under this subsection to be considered a small employer under this subtitle.

(5) Notwithstanding paragraph (1)(i) of this subsection, a person is considered to continue to be a small employer under this subtitle if the person met the conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan in accordance with this subtitle, and subsequently eliminated all but one employee.