



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF THE COMMISSIONER
PO BOX 325
TRENTON, NJ 08625-0325

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

TEL (609) 292-7272

KENNETH E. KOBYLowski
Commissioner

BULLETIN NO. 13-14

TO: ALL HEALTH CARRIERS AUTHORIZED TO ISSUE HEALTH BENEFITS PLANS IN NEW JERSEY THAT ISSUE INDIVIDUAL HEALTH COVERAGE PROGRAM (IHC) COVERAGE AND SMALL EMPLOYER HEALTH BENEFITS PROGRAM (SEH) COVERAGE

FROM: KENNETH E. KOBYLowski, COMMISSIONER

RE: AMENDMENTS TO THE IHC AND SEH RATING RULES UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)

The 2010 Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) establishes requirements that health insurers must follow including, among other things, the way premiums and rebates must be calculated. The ACA also imposes new fees and taxes beginning in 2014. Some of the provisions of the ACA conflict with or nullify the Department's current Individual Health Coverage Program (IHC) and Small Employer Health Benefits Program (SEH) rules. Additionally, the new fees and taxes are not accounted for in the current rules. The purpose of this Bulletin is to briefly describe the differences between the ACA requirements and current IHC and SEH regulations, and to provide guidance to carriers regarding necessary action in order to comply with the ACA and Federal regulations pending the Department's adoption of amendments to its current rules.

Current IHC rules require the use of 5-year rate bands, while the ACA requires one-year rate bands for adults aged 19-63. Current IHC rules permit a maximum ratio of 350 percent between premiums for the highest rated individual policyholder and the lowest rated individual policyholder in the state based on age, while the ACA established 300 percent as the maximum range for adults. Coverage tiers for non-single coverage currently permitted in the IHC rules are not permitted under the ACA or Federal regulations.

Current SEH rules require a separate rate tier when Medicare is primary, which is not permitted by the ACA. Current SEH rules also use separate rating pools for purchasing alliances and nonstandard plans, and use gender as a rating factor. Guaranteed issue and single risk pool requirements under Federal regulations prohibit offerings on different terms to a subset of the SEH market. Therefore, purchasing alliances may not be offered different terms than other small employers.

The ACA prohibits plans from including annual or lifetime limits on Essential Health Benefits. This prohibition conflicts with current IHC and SEH regulatory requirements to offer Basic and Essential plans, which are required by statute.

For rates applicable to all rating periods beginning on or after January 1, 2014, carriers are directed to:

- Formulate rates in the IHC market to achieve a required 300 percent maximum ratio between premiums for the highest rated individual policyholder and the lowest rated individual policyholder in the State. Age factor categories should be in the following increments: children ages 0 through 20, one-year age bands for adults ages 21 through 63, and a single age band for adults ages 64 and over;
- Formulate rates in the SEH market without regard to gender. Age factor categories should be in the following increments: children ages 0 through 20, one-year age bands for adults ages 21 through 63, and a single age band for adults ages 64 and over.
- In the SEH market, Medicare status should not be used as a rating factor.

The foregoing changes do not apply to any plan for which “grandfather” status has been established pursuant to 26 CFR 54.9815-1251T, 29 CFR 2590.715-1251 or 45 CFR 147.140.

Existing rating requirements for Basic and Essential plans will be moot as of January 2014, and such plans will not be available for sale.

Finally, the ACA imposes new Federal fees and taxes on insurers that were not anticipated when the current rules were promulgated. New Federal fees and taxes should be excluded from premium for purposes of medical loss ratio (MLR) calculation. The exclusion of new Federal fees and taxes is intended to maintain the status quo in MLR calculation; carriers therefore should not exclude from premium fees and taxes that existed prior to January 1, 2014.

July 15, 2013
Date



Kenneth E. Kobylowski, Commissioner

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