



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM
PO Box 325
TRENTON, NJ 08625-0325

RICHARD J. CODEY
Acting Governor

TEL (609) 633-1882
FAX (609) 633-2030

DONALD BRYAN
Acting Commissioner

ADVISORY BULLETIN
05-IHC-04

October 25, 2005

To: IHC Program Members and Interested Parties

From: Wardell Sanders, IHC Program Executive Director

Re: HIPAA and Guaranteed Renewability

The New Jersey Individual Health Coverage Program (IHC) Board has become aware that the Federal Health Insurance Portability and Accessibility Act of 1996 (HIPAA) does not permit a carrier to terminate coverage because a person has become eligible for or has become covered under a group health plan. This Federal requirement conflicts with N.J.S.A. 17B:27A-6c(1) and the standardized individual market contracts set forth as Appendix Exhibits to N.J.A.C. 11:20, which allow a carrier to nonrenew an individual plan if the person becomes eligible for group coverage. The federal law supersedes N.J.S.A. 17B:27A-6c(1) and the standardized contracts since New Jersey State law prevents the application of the guaranteed renewability requirements of HIPAA.

All carriers shall immediately comply with the federal requirements for guaranteed renewability, notwithstanding the present language in N.J.S.A. 17B:27A-6c(1) and the standard forms, and shall not terminate coverage if a person becomes eligible for or covered under a group health plan.

It is the IHC Board's intention to amend its standard plans to provide for guaranteed renewability when a person becomes eligible for a group health benefits plan consistent with the federal requirement and to allow for coordination of benefits when a person retains individual coverage while also being covered under a group health plan. However, until the plans have been amended, IHC carriers must continue to pay full benefits under IHC plans, and such benefits must not be reduced in consideration of benefits paid under a group health plan.

Questions regarding this bulletin may be directed to:

Wardell Sanders

Executive Director

Wsanders@dobi.state.nj.us

609.633.1882x50306

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