

NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

20 West State Street, 10th floor
CN 325
Trenton, NJ 08625

BULLETIN NUMBER 95-05

**TO: ALL CARRIERS ISSUING LIMITED ACCIDENT AND SICKNESS
COVERAGE TO COLLEGE AND UNIVERSITY STUDENTS**

FROM: Kevin O'Leary, Executive Director
RE: Joint Bulletin 95-01
DATE: May 15, 1995

Several carriers and producers have come forward, in response to the Individual Health Coverage Program ("IHC") and Small Employer Health Benefits Program ("SEH") Boards' Joint Advisory Bulletin 95-01, to ask whether certificates issued to students of colleges and universities located in New Jersey evidencing coverage under blanket limited accident and health policies or contracts issued to a trust or association, where the students pay the premium, must be issued pursuant to the Individual Health Insurance Reform Act ("the IHC Act"), N.J.S.A. 17B:27A-2 et seq.

Joint Advisory Bulletin 95-01 clarified that the IHC Act's definition of an "individual health benefits plan" includes "a certificate issued to an eligible person which evidences coverage under a policy or contract issued to a trust or association, regardless of the situs of delivery of the policy or contract, if the eligible person pays the premium ...," even if issued to a student who fits the definition of an "eligible person." There is no exception in the IHC Act for student coverage that contains medical or hospital benefits beyond "accident only" coverage. "Accident only" policies are not "health benefits plans" under the IHC Act.

The IHC Board and the Commissioner recognize that students may face circumstances distinguishable from other eligible persons receiving coverage through trusts or associations: first, the financial constraints many full-time students face may make the purchase of a standard individual health benefits plan prohibitive; second, full-time students enrolled at institutions of higher education are required by law, N.J.S.A. 18A:62-15, to "maintain health insurance coverage which provides basic hospital benefits" while they are enrolled; third, such policies typically cover any student who wants coverage, regardless of health status; and fourth, the price for coverage is not based on a student's age, gender, or health status. Nonetheless, the IHC Board does not have statutory discretion to permit the sale of non-conforming individual health benefits plans for coverage of students.

The IHC Board, in conjunction with the Department of Insurance, believe that student accident and sickness coverage issued as group coverage through a policy or contract issued to a trust or association must be brought into compliance with applicable New Jersey law in an orderly and expeditious manner. The Department of Insurance has for several years approved policy forms issued to discretionary groups comprised of students at institutions of higher education. Such policies are issued directly to the institution of higher learning and are bona fide “group” health insurance policies under New Jersey law. A student covered by a group policy filed by the Commissioner of Insurance as an approved discretionary group would not be considered an “eligible person” under the IHC Act because the student is eligible for group insurance.

Accordingly, carriers that wish to continue to cover students¹ must comply in the following manner with New Jersey law:

- **Carriers may issue to students who are “eligible persons,” as defined by the IHC Act, certificates evidencing coverage by a policy or contract issued to a trust or association only if such coverage is a standard individual health benefits plan that complies in all respects with the IHC Program rules. Carriers may not issue to students who are “eligible persons” certificates evidencing coverage by a group policy or contract issued to a trust or association that do not conform in all respects with the IHC Program rules.**
- **Carriers may issue an accident and sickness group health insurance policy directly to an institution of higher education for coverage of students and their dependents in New Jersey only if such policy has been submitted to and filed by the Commissioner pursuant to N.J.S.A. 17B:27-49. Moreover, a group policy issued directly to an institution of higher education to cover students must be approved by the Commissioner as a discretionary group pursuant to N.J.S.A. 17B:27-29.**

The Department of Insurance intends to amend existing regulations to clarify the Department’s procedures for approving discretionary group policies, including those covering full-time college and university students and their dependents, pursuant to N.J.S.A. 17B:27-29. In the interim, the Department of Insurance will endeavor to review and approve such policies expeditiously.

¹ Students may be covered as dependents under their parents’ policies or as employees under an employer’s group policy. This discussion assumes that students are not so covered.

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July 21, 1995

Ms. Melanie Ferrari, Executive Vice President
United Insurance Companies
4001 McEwen, Suite 300
Dallas, TX 75244

BY FAX

Dear Ms. Ferrari:

Thank you for your recent letter about student coverage and compliance with New Jersey law and Bulletin 95-05. Bulletin 95-05 did not change the law, it merely clarified that coverage of a college student by a certificate issued by a trust or association was subject to the Individual Health Insurance Reform Act, and had been subject to the Act since the passage of P.L. 1993, c. 164 on June 30, 1993. Further, the IHC Board first clarified this point in Joint Advisory Bulletin 95-01, which was mailed to carriers on March 3, 1995.

The purpose of Bulletin 95-05 was to explain to carriers by what means they could legally offer coverage to students. It did not provide immunity, amnesty, or otherwise "grandfather" existing non-conforming plans. I believe the language of the bulletin, which appeared in bold print, as below, was clear:

"Accordingly, carriers that wish to continue to cover students must comply in the following manner with New Jersey law:

- **Carriers may issue to students who are "eligible persons," as defined by the IHC Act, certificates evidencing coverage by a policy or contract issued to a trust or association only if such coverage is a standard individual health benefits plan that complies in all respects with the IHC Program rules. Carriers may not issue to students who are "eligible persons" certificates evidencing coverage by a group policy or contract issued to a trust or association that do not conform in all respects with the IHC Program rules.**
- **Carriers may issue an accident and sickness group health insurance policy directly to an institution of higher education for coverage of students and their dependents in New Jersey only if such policy has been submitted to and filed by the Commissioner pursuant to N.J.S.A. 17B:27-49. Moreover, a group policy**

issued directly to an institution of higher education to cover students must be approved by the Commissioner as a discretionary group pursuant to N.J.S.A. 17B:27-29.”

While I recognize that you have negotiated contracts for the upcoming school year, I believe that you received adequate notice, through passage of the P.L. 1993, c. 164, and advisory bulletins sent to you as early as March of this year, to avoid the situation you are now in. In addition, the IHC Board and Department of Insurance have had numerous, extensive discussions with William O’Connor, of your company, dating back over a year with respect to the scope and meaning of the IHC Act and MEGA Life’s compliance with the law.

As Bulletin 95-05 states, “the IHC Board does not have statutory discretion to permit the sale of non-conforming individual health benefits plans for coverage of students.” I strongly recommend that you contact Paul DeAngelo, Director of Enforcement for the Department of Insurance, to discuss how to bring your current plans into compliance with New Jersey law.

Sincerely,

Kevin O’Leary

Kevin O’Leary
Executive Director

cc: Paul DeAngelo, NJ DOI
Gale Simon, NJ DOI
Leon Moskowitz, NJ DOI
Maria Smyth, DAG