NEW JERSEY
SMALL EMPLOYER HEALTH BENEFITS PROGRAM
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ADVISORY BULLETIN
96-SEH-05

To: **SEH Program Members**
From: **Wardell Sanders, SEH Program Assistant Director**
Re: **Non-renewal of Non-standard Plans**
Date: **June 27, 1996**

It has come to the attention of the New Jersey Small Employer Health Benefits ("SEH") Program Board and the New Jersey Department of Insurance (DOI") that some carriers are interested in non-renewing their non-standard health benefits plans at the carrier's discretion. Please be advised that New Jersey law does not permit any carrier to non-renew a non-standard health benefits plan, unless the carrier first receives approval to non-renew the plan from the Commissioner, or for one of the reasons set forth in N.J.A.C. 11:21-7.12.[1]

Pursuant to N.J.S.A. 17B:27A-19j(1), as amended by P.L.1995, c.340 (Senate Bill 2380), a non-standard health benefits plan issued by a carrier may be renewed at the option of the small employer. Additionally, that same section provides that non-standard plans are subject to N.J.S.A.17B:27A-23 which provides for guaranteed renewability of all small employer health benefits plans issued pursuant to the SEH Act, N.J.S.A. 17B:27A-17 et seq.

In order to non-renew a non-standard plan at the carrier's discretion, a carrier first must obtain approval from the Commissioner to withdraw the plan upon a showing that the retention of the plan would "cause an unreasonable financial burden to the issuing carrier." N.J.S.A 17B:27A-19j(3)(a). Failure to offer to renew a non-standard health benefits plan without the Commissioner's approval to withdraw the plan would be a violation of the SEH Act, and expose a carrier to a penalty of not less than $2,000 and not greater than $5,000 for each violation. N.J.S.A. 17B:27A-43.

While N.J.S.A. 17B:27A-19j(6)(c) provides that the penalty for failure to file a health benefits plan issued by a carrier through an out-of-State trust is that the carrier shall not be permitted to continue to renew the plan, that provision was not intended as a mechanism for carriers selectively to withdraw non-standard plans issued through a trust. Carriers must continue to offer to renew non-standard health benefits plans and may choose to non-renew a non-standard plan only if a withdrawal plan has been approved by the Commissioner, or on an individual basis consistent with N.J.A.C. 11:21-7.12.

[1] N.J.A.C. 11:21-7.12 provides that small employer health benefits plans are guaranteed renewable at the option of the small employer except for: (1) Nonpayment of required premiums; (2) Fraud or misrepresentation; (3) Failure to meet the carrier's participation requirements; (4) The small employer no longer meets the definition of a "small employer;" (5) Failure to meet the carrier's contribution requirements; (6) The small employer ceases its membership in an association or trust of employers where the health plan was issued in connection with such membership; and (7) The carrier institutes a withdrawal from the market.