

**INSURANCE
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**

Small Employer Health Benefits Program

Proposed New Rule: N.J.A.C. 11:21 Appendix Exhibit D

Proposed Amendments: N.J.A.C. 11:21 Appendix Exhibits A, F, G, V, W, Y, HH and II.

Authorized By: New Jersey Small Employer Health Benefits Program Board, Ellen DeRosa, Executive Director

Authority: N.J.S.A. 17B:27A-17 et seq. and P.L. 2005, c. 375

Calendar Reference: See Summary below for explanation of inapplicability of calendar requirement.

Proposal number: PRN-2006-

Interested persons may testify with respect to the standard health benefits plans, set forth in Appendix Exhibits A, D, F, G, V, W, Y, HH and II to N.J.A.C. 11:21 at a public hearing to be held on August 9, 2006 at the New Jersey Department of Banking and Insurance, Room 219, 20 West State Street, Trenton, New Jersey.

Submit comments by August 15, 2006 to:

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The agency proposal follows:

Summary

The SEH Program Board was charged by the Legislature with implementing and regulating the reformed small employer health benefits coverage market pursuant to P.L. 1992, c.162 as amended, and codified at N.J.S.A. 17B:27A-17 et seq. (the "SEH Act"). P.L. 2005,

c.375, effective May 12, 2006, amended the SEH Act by creating N.J.S.A. 17B:27A-19.16, a provision providing an option to elect group health coverage for certain dependents until age 30.

The current standard certificates and evidences of coverage documents include a provision outlining Continuation Rights as they exist under Federal Law as well as under New Jersey law. This rule proposal expands the Continuation Rights provision to address New Jersey Continuation Rights for Over-Age Dependents. N.J.S.A. 17B:27A-19.16 requires that “Notice regarding coverage for a dependent as provided pursuant to this section shall be provided to a covered person: (1) in the certificate of coverage prepared for covered persons by the carrier on or about the commencement of coverage.” The section proposed for inclusion in the Continuation Rights provision provides the required notice.

The proposed rule amends the “Coordination Among Continuation Rights Sections” provision of contracts certificates, and evidences of coverage to clarify that a dependent who has elected to continue his or her coverage as an over-age dependent pursuant to P.L. 2005, c. 375 shall not be entitled to further continue coverage under COBRA or New Jersey Group Continuation when the over-age dependent continuation ends since loss of over-age dependent coverage is not considered to be a qualifying event under either COBRA or New Jersey Group Continuation.

The proposed rule adds a section entitled “New Jersey Continuation Rights for Over-Age Dependents” to the Continuation Rights provision. The new section: defines over-age dependent; explains the over-age dependent’s opportunity to elect to continue coverage until age 30, including the timing for such election and the obligation to pay premiums; and identifies the circumstances under which the continued coverage will terminate. The new section addressing an over-age dependent’s opportunity to continue coverage contains text to accommodate either

the “integrated” option or the “stand-alone” option as set forth in Department of Banking and Insurance Bulletin No. 06-13. Since the stand alone option specified in Bulletin No. 06-13 requires that carriers treat the dependent coverage “as if the dependent had single coverage under the group contract” the Board is proposing new rule Appendix Exhibit D, “Over-Age Dependent Coverage Rider.” Carriers electing the stand alone option will attach the Over-Age Dependent Coverage Rider to all small employer group policies and to certificates issued to the over-age dependents. The Rider amends provisions in the policy and certificate to specifically address eligibility and termination provisions for the over-age dependent, and deletes provisions that are not applicable to coverage for an over-age dependent.

Since the proposed amendments to the standard plans affect only a specific section of the standard policy forms, carriers will be given the option to implement the forms changes using the Compliance and Variability Rider set forth at N.J.A.C. 11:21 Appendix Exhibit T or may incorporate the change into the standard contracts, certificates, and evidence of coverage. Upon adoption of the proposed amendments, the SEH Board will issue an Advisory Bulletin setting forth the text to be included on the Compliance and Variability rider by those carriers that choose such option.

SEH Rulemaking Procedures

The SEH Board proposes these amendments pursuant to the procedures set forth in N.J.S.A. 17B:27A-51, which provide a special procedure whereby the SEH Board may adopt certain actions. Pursuant to this procedure, the Board is required to publish notice of its intended action in three newspapers of general circulation, which notice shall include procedures for obtaining a detailed description of the intended action and the time, place and manner by which interested persons may present their views regarding the intended action. Notice of the intended

action also is required to be sent to affected trade and professional associations, carriers, and other interested persons who may request such notice. Concurrently, the Board is required to forward the notice of the intended action to the Office of Administrative Law (OAL) for publication in the New Jersey Register. The Board must provide a minimum 20-day period for all interested persons to submit their written comments on the intended action to the Board.

Pursuant to N.J.S.A. 17B:27A-51, the Board may adopt its intended action immediately upon the close of the specified comment period by submitting the adopted action to the OAL. If the Board elects to adopt the action immediately upon the close of the comment period, it shall nevertheless respond to the comments timely submitted within a reasonable period of time thereafter. The Board shall prepare a report for public distribution, and publication by the OAL in the New Jersey Register. The report shall include a list of commenters, their relevant comments, and the Board's responses.

Pursuant to N.J.S.A. 17B:27A-51, all actions adopted by the Board are subject to the requirements of this special rulemaking procedure notwithstanding the provisions of the Administrative Procedure Act. As a result, the quarterly calendar requirement set forth at N.J.A.C. 1:30-3.1 is not applicable when the Board uses its special rulemaking procedures.

Please note that the unique provisions of N.J.S.A. 17B:27A-51 may result in the publication of this rule proposal in the New Jersey Register after the comment period has concluded.

Social Impact

The amendments to the standard plans to provide for continuation of coverage for dependents, as required by P.L. 2005, c. 375, will have a positive impact on dependents whose coverage under a group plan has terminated or will terminate as a result of attaining the limiting

age for dependent coverage by affording them the opportunity to be covered under the parent's group plan until age 30, provided they otherwise qualify under the provisions of P.L. 2005, c.375. Although the amendments may be perceived by some employers as burdensome, they are necessary to comply with the requirements of P.L. 2005, c. 375.

Economic Impact

The proposed amendments will have an impact on carriers offering small employer health benefits plans in this State. Member carriers will be required to bear the administrative costs associated with complying with the requirements P.L. 2005, c. 375. These carrier costs will include costs associated with training appropriate personnel regarding the continuation rights and developing any administrative forms the carriers believe necessary. These costs, however, are attendant to the continued implementation of a State mandate and are far outweighed by the benefits to small employers and their employees covered by the standard SEH plans.

Employees and their dependents who are covered under the small employer plans will be positively impacted by the amendment since it makes group coverage available, at an over-age dependent rate, in instances where it would otherwise not have been provided.

Insurance producers may be modestly affected by the proposed rules. They will be required to learn and understand the changes in the law and the changes in the standard contracts in order to serve their clients.

Carriers will be economically affected by the proposed amendments to the standard policy forms set forth in the Appendix Exhibits for the standard policy forms. Carriers will be required to either use these new forms for new issues and renewals or issue a rider to include the amendments.

Federal Standards Statement

The proposed rules are intended to comply with State law. A dependent who has elected to continue his or her coverage as an over-age dependent pursuant to P.L. 2005, c. 375 shall not be entitled to further continue coverage under Federal law, COBRA, when the continuation pursuant to P.L. 2005, c. 375 ends. The proposed rules do not expand upon the requirements set forth in this Federal law.

Jobs Impact

The proposed amendments are not expected to result in the generation or loss of jobs in the State if they were to take effect.

Agriculture Industry Impact

The proposed amendments have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The Board believes that all carriers subject to these rules have in excess of 100 employees or are located outside of the State of New Jersey. Therefore, a regulatory flexibility analysis is not required. However, to the extent that any carrier might be considered a small business under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the following analysis would apply.

All carriers to whom these rules apply are required to bear any costs associated with complying with the requirements of the rules. The requirements and costs are discussed under the Summary and Economic Impact above. To the extent that these rules apply to small businesses, they may have a greater impact in that small businesses may be required to devote proportionately more staff and financial resources to achieve compliance. The Board believes,

however, that any additional costs would not pose an undue burden because the information required is readily available to carriers.

The Small Employer Health Benefits Act provides no different compliance requirements based on business size. The rules at N.J.A.C. 11:21 establish procedures and standards for carriers to meet their obligations pursuant to the Act, and the fair, reasonable and equitable administration of the SEH Program pursuant to N.J.S.A. 17B:27A-17 et seq. All of the required changes to a carrier's business fall within the normal functions a carrier performs in complying with any State insurance law or regulations. An exemption from the policy form changes for certain carriers that are small businesses would be inappropriate because such an exemption would permit the sale of non-conforming forms in an otherwise standardized market. Accordingly, these proposed rules provide no differentiation in compliance requirements based on business size.

Smart Growth Impact Statement

The proposed amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposed amendments to the New Jersey Group Continuation Rights provision is contained in standard plans A-E, HMO and HMO-POS, in Appendix Exhibits A, F, G, V, W, Y, HH and II and in proposed new rule Appendix D. .

Date

Ellen DeRosa, Executive Director