

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

**Small Employer Health Benefits Program
Withdrawals of Standard SEH Plan Optional Benefit Riders; Small
Employer Purchasing Alliances**

Proposed Readoption: N.J.A.C. 11:21-20 and 21

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17B:27A-17 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal number: PRN 2004-16.

Submit comments by March 5, 2004 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 11:21 expires on September 25, 2003. In accordance with N.J.S.A. 52:14B-5.1c, this expiration date has been extended to March 23, 2004. Some of the subchapters contained within this chapter were promulgated by the Department of Banking and

Insurance (Department); the remainder by the Small Employer Health Benefits Program Board (SEH Board).

On October 6, 2003, the Department proposed for readoption N.J.A.C. 11:21-7A, 9 and 13 and 11:21 Appendix Exhibits BB, FF and GG, and proposed for readoption with amendments N.J.A.C. 11:21-11, 15, 16 and 19 (see 35 N.J.R. 4438(a)). However, the Department inadvertently omitted from that proposal the readoption of N.J.A.C. 11:21-20 and 21. As required by the Executive Order, the Department has reviewed Subchapters 20 and 21, and has determined that they are necessary, reasonable and proper for the purpose for which they were originally promulgated. Accordingly, the Department hereby proposes these subchapters for readoption.

The readoption of N.J.A.C. 11:21-20 is necessary because it contains standards and procedures for SEH carriers to withdraw from the market standard SEH plan optional benefit riders. The readoption of N.J.A.C. 11:21-21 is necessary because it contains rules for the formation and operation of small employer purchasing alliances.

Readoption of the remaining subchapters in Chapter 21 have been proposed separately by the New Jersey Small Employer Health Benefits Program Board, and appeared in the November 3, 2003 New Jersey Register (see 35 N.J.R. 5011(a)). Completion of the readoption process will be coordinated between the agencies.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The readoption of N.J.A.C. 11:21, which established the SEH Program under which all small employer carriers in New Jersey must offer standard health benefits plans, will continue to have a favorable impact on New Jersey small employers and their employees. Small employers will continue to have access to a greater variety of carriers offering small employer health benefits in the State, and the requirement that carriers offer only the health benefits plans designed by the SEH Program Board will enable small employers to continue to readily compare price among carriers. Further, carriers will continue to be obligated to provide small employer health benefit plans on a guaranteed issue basis, with plans subject to guaranteed renewability, modified community rating and limitations as to the imposition of a pre-existing conditions exclusion.

Readoption of Subchapter 20 will continue to have a favorable impact on SEH carriers. This subchapter, when originally adopted, permitted carriers to withdraw certain optional benefit riders from the market, thereby lessening the administrative burden placed on carriers. Readoption of this subchapter will continue to benefit carriers. The initial adoption of Subchapter 20 may have resulted in an unfavorable impact on persons covered under SEH standard plans,

in that certain benefits provided under the riders may have become unavailable, and seeking replacement coverage may have been disruptive. However, limiting the large number of available riders since that time may have eliminated some of the confusion previously experienced by covered persons in selecting appropriate riders.

Readoption of Subchapter 21, which established rules for the formation and operation of small employer purchasing alliances, will continue to have a favorable impact on small employers and their covered employees because employers will continue to be able to contract for health benefits plans at reduced rates, and employees may continue to obtain coverage that was previously unavailable, or that may have been more costly. SEH carriers who contract with purchasing alliances may likewise continue to be favorably impacted because their sales volume for standard small employer health benefits plans may increase.

Economic Impact

Readoption of Subchapter 20 will continue to have a positive economic impact on SEH carriers because the costs of administering a large number of optional benefit riders have been decreased, although these carriers will be required to continue to bear the cost of filing their nonrenewal applications with the Department and providing written notice of nonrenewal to policyholders or contractholders and producers. Covered persons may continue to experience a

negative economic impact in that they may have been required to purchase a more expensive replacement rider to obtain coverage similar to that provided under a withdrawn rider.

Readoption of Subchapter 21 will continue to have a favorable economic impact on small employers who became members of purchasing alliances because the alliances will continue to be able to negotiate with carriers for health benefits plans at reduced rates. Employees of these small employers will likewise continue to reap the economic benefits of these lower rates. Carriers may also continue to be favorably impacted because their sales volume for standard small employer health benefits plans may continue to increase.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption in Subchapter 20 are not subject to any Federal standards or requirements, and the rules proposed for readoption in Subchapter 21 do not exceed the Federal standards contained in the Health Insurance Portability and Accountability Act of 1996, Pub.L. 104-191.

Jobs Impact

The Department does not anticipate the creation or loss of any jobs in this State as a result of the rules proposed for readoption.

Agriculture Industry Impact

The Department does not believe that the rules proposed for re adoption will have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The rules proposed for re adoption apply to all carriers that are members of the Small Employer Health Benefits Program. Some of these entities may be "small businesses" as defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. 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 statement above. Additionally, the Department does not believe that carriers will be required to utilize or employ any additional professional services in order to comply with the readopted rules. 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 Department 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. 11:21-20 and 21 establish standards and procedures for carriers to meet certain 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. Accordingly, the rules proposed for readoption provide no differentiation in compliance requirements based on business size.

Smart Growth Impact

The rules proposed for readoption have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:21-20 and 21.

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