

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Small Employer Health Benefits Program

Proposed Readoption: N.J.A.C. 11:21-7A, 9, 15, and 16 and 11:21 Appendix Exhibit GG

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

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

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

Proposal Number: PRN 2016-160.

Submit comments by November 18, 2016, to:

Denise Illes, Chief

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 11:21-7A, 9, 11, 13, 15, 16, 19, 20, and 21, and 11:21 Appendix Exhibits BB-Parts 3, 4, and 5, FF and GG, concerning the Small Employer Health Benefits Program (SEH) were scheduled to expire on August 18, 2016. In accordance with N.J.S.A. 52:14B-5.1.c(2), the filing of this notice of readoption with the Office of Administrative Law extends the expiration date by 180 days to February 14, 2017.

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). The Department has reviewed the subchapters it promulgated and has determined that N.J.A.C. 11:21-7A, 9, 15, and 16 and 11:21 Appendix Exhibit GG are necessary, reasonable, and proper for the purpose for which they were originally promulgated and is proposing to readopt these subchapters and this Appendix Exhibit without change. The Department is also allowing N.J.A.C. 11:21-11, 13, 19, 20, and 21 and 11:21 Appendix Exhibit BB-Parts 3, 4, and 5 and Appendix Exhibit FF to expire, as they are no longer necessary, reasonable, and proper for the purpose for which they were originally promulgated.

The Federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152, and rules promulgated and guidance issued thereunder (collectively, the Federal law), impose various reforms that affected the individual and small employer health insurance markets. The Department anticipates proposing amendments to certain sections of the readopted subchapters in a separate rulemaking in the future to further align the provisions of the existing rules with Federal law and make various necessary enhancements.

The readoption of N.J.A.C. 11:21-7A is necessary because it implements the loss ratio and refund reporting requirements of the New Jersey Small Employer Health Benefits Law, P.L.

1992, c. 162 (N.J.S.A. 17B:27A-17 et seq.) and is, therefore, proposed to be readopted without change.

The readoption of N.J.A.C. 11:21-9 is necessary because it requires all Small Employer Benefits Program carriers (SEH carriers) to file with the Commissioner of Banking and Insurance an informational rate filing that includes premium and rating methodology information for all health benefits plans offered under the SEH program and is, therefore, proposed to be readopted without change.

The readoption of N.J.A.C. 11:21-15 is necessary because it contains the informational and procedural requirements for carriers to request relief from certain obligations required by the SEH law and is, therefore, proposed to be readopted without change.

The readoption of N.J.A.C. 11:21-16 is necessary because it contains the requirements and procedures for carriers intending to withdraw from the small employer market and is, therefore, proposed to be readopted without change.

The Department is proposing the readoption of Appendix Exhibit GG, which is a loss ratio report filed annually by carriers with the Department pursuant to N.J.A.C. 11:21-7A.

A 60-day comment period is provided for this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The readoption of several of the subchapters of N.J.A.C. 11:21 that implemented portions of the SEH Act, establishing 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 have access to a variety of

carriers offering small employer health benefits in the State and will continue to enjoy the rate filing and loss ratio protections afforded under New Jersey law.

Economic Impact

The loss ratio rules proposed for readoption will continue the positive economic impact that small employers have enjoyed since 1994, because the loss ratio rules require that at least 80 percent of premiums paid be paid out in claims. Small employers will be impacted indirectly in that the regulatory requirements placed on carriers will enable small employers to continue to experience the advantages of the health benefits plans available in the small group market.

The Department will continue to be required to bear the costs of reviewing the filings submitted by carriers required by this chapter, but does not anticipate any new or additional costs as a result of the rules proposed for readoption.

Federal Standards Statement

The rules proposed for readoption comply with the Federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152 and do not expand upon the requirements set forth in the Federal law.

Jobs Impact

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

Agriculture Industry Impact

The Department does not expect the rules proposed for readoption to have any impact upon the State agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption apply to all carriers that are members of the SEH. Some of these entities may be “small businesses” as defined in the Regulatory Flexibility Act, 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 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 rules proposed for readoption. To the extent that these rules apply to small business carriers, they may have a greater impact in that small business carriers 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 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. Accordingly, the rules proposed for readoption provide no differentiation in compliance requirements based on business size.

Housing Affordability Impact Analysis

The rules proposed for readoption have no impact on housing affordability or the average costs associated with housing. The rules proposed for readoption affect carriers that are members of the SEH established pursuant to N.J.S.A. 17B:27A-17 et seq.

Smart Growth Development Impact Analysis

The rules proposed for readoption have no impact on smart growth or on housing production in Planning Areas 1 and 2, or within the designated centers, under the State Development and Redevelopment Plan. The rules proposed for readoption affect carriers that are members of the SEH established pursuant to N.J.S.A. 17B:27A-17 et seq.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:21-7A, 9, 15, and 16 and 11:21, Appendix Exhibit GG.