NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
&
SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD
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Trenton, NJ 08625
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JOINT ADVISORY BULLETIN NUMBER 95-05

To: **Carriers Licensed In New Jersey To Issue Health Coverage**
From: **The New Jersey IHC And SEH Program Boards**
Re: **Coverage Of Individuals And Small Employers By Association Health Plans**

The Boards of Directors of the New Jersey Individual Health Coverage ("IHC") Program and Small Employer Health Benefits ("SEH") Program wish to clarify that carriers that cover individuals and small employers through association group health benefits plans must comply with the Individual Health Insurance Reform Act ("IHC Act"), N.J.S.A. 17B:27A-2 et seq., and Small Employer Health Benefits Act ("SEH Act"), N.J.S.A. 17B:27A-17 et seq., and program rules, N.J.A.C. 11:20-1.1 et seq, and N.J.A.C. 11:21-1.1 et seq., respectively. The Boards continue to receive numerous inquiries with regard to the requirements for the enrollment of individuals and small employers in health benefits plans offered by associations. This bulletin reiterates and elaborates upon advice contained in Joint Advisory Bulletin 95-01, issued in February of this year.

I. COVERAGE OF INDIVIDUALS BY AN ASSOCIATION OR TRUST HEALTH BENEFITS PLAN ISSUED PRIOR TO AUGUST 1, 1993

The IHC Act includes in the definition of "individual health benefits plan" "(a) a health benefits plan for eligible persons and their dependents," and what previously had been considered "group" insurance, namely, "(b) 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 and is not being covered under the policy or contract pursuant to continuation of benefits provisions applicable under Federal or State law." N.J.S.A. 17B:27A-2.

Individual health benefits plans, as defined above, that were issued to "eligible persons" on a non-open enrollment basis prior to August 1, 1993,[1] the effective date of the IHC Program, are not affected by the IHC Act and may be renewed under the terms of the policy or contract. The IHC Act defines an "eligible person" as a resident of New Jersey who is not eligible to be insured under a group health benefits plan,[2] Medicare, or Medicaid.[3] The law does not require

[1] The August 1, 1993 date refers to the date each certificate was issued to an individual, not the date the master contract was issued to the association or trust.
[2] The term "group health benefits plan" refers to employer-based group coverage, not an association group plan.
[3] The federal Omnibus Budget Reconciliation Act of 1993 makes the federal funding of Medicaid contingent upon the State's recission of any provisions of law which allow Medicaid eligibility to be taken into consideration with respect to

that a carrier terminate, or convert to standard plans, individual health benefits plans issued to eligible persons on a non-open enrollment basis prior to August 1, 1993.

II. COVERAGE OF INDIVIDUALS BY AN ASSOCIATION OR TRUST HEALTH BENEFITS PLAN ON OR AFTER AUGUST 1, 1993

On or after August 1, 1993, carriers may issue to "eligible persons," either directly or through an association or trust, only the standard individual health benefits plans (A, B, C, D, E and HMO) approved by the IHC Board. As long as the individual pays the premium for coverage under a health benefits plan issued through an association, the carrier issuing the plan must comply in all respects with the IHC Program rules.

III. COVERAGE OF SMALL EMPLOYERS BY AN ASSOCIATION OR TRUST HEALTH BENEFITS PLAN

The SEH Act expressly applies to carriers that issue coverage to small employers through a master policy issued to a trust or association. N.J.S.A. 17B:27A-25. Non-standard health benefits plans that were issued prior to January 1, 1994 and were in effect on February 29, 1994, including those issued through an association or trust, are permitted to be renewed at the option of the small employer until the anniversary date occurring on or after March 1, 1996.[4] On the renewal date occurring on or after September 11, 1994, all non-standard plans authorized to be continued or renewed were required to come into compliance with the rules of the SEH Program, with respect to: guaranteed issuance and renewal; modified community rating; limited preexisting condition exclusions; 75% minimum participation and 10% minimum contribution; 75% minimum loss ratio; and continuation of coverage rights. N.J.S.A. 17B:27A-19j and N.J.A.C. 11:21-3A, et seq..

On or after March 1, 1996, all carriers, including those with non-standard plans in force, may issue or renew only standard health benefits plans (A, B, C, D, E and HMO). All non-standard health benefits plans covering small employers, including those issued through associations and trusts, must terminate on the anniversary date occurring on or after March 1, 1996.

IV. COMPLIANCE

Carriers that wish to discuss the compliance issues addressed in this bulletin may contact Kevin O'Leary, Executive Director of the IHC and SEH Programs, at (609)984-2425. **Carriers that fail to disclose the existence of coverage issued in violation of the IHC and SEH Acts may be subject to fines, penalties, or suspension or revocation of their authority to issue health benefits plans in New Jersey, by the New Jersey Department of Insurance**.

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the eligibility for or issuance of private health insurance. Therefore, the Board anticipates that Medicaid eligibility will no longer disqualify someone from obtaining individual coverage once the Legislature has implemented federal law.

[4] Only carriers issuing small employer health benefits plans through associations, trusts and multiple employer arrangements were permitted by law to issue non-standard health benefits plans to small employers on or after January 1, 1994. These plans are, however, are subject to all rules of the SEH Program, other than standard benefit design.