

NEW JERSEY
SMALL EMPLOYER HEALTH BENEFITS PROGRAM

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| ADVISORY BULLETIN 97-SEH-05 |
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To: SEH Program Members and Interested Parties
From: Wardell Sanders, Assistant Director
Re: Domestic Employees
Date: June 3, 1997

A HOUSEHOLD OWNER MEETS THE DEFINITION OF A "SMALL EMPLOYER" IF THE HOUSEHOLD OWNER, ON AT LEAST 50 PERCENT OF THE WORKING DAYS DURING THE PRECEDING CALENDAR QUARTER, EMPLOYED AT LEAST TWO BUT NOT MORE THAN 49 PAID DOMESTIC EMPLOYEES MEETING THE DEFINITION OF AN "ELIGIBLE EMPLOYEE."

Based on a question presented by a carrier in the small employer market, the New Jersey Small Employer Health Benefits ("SEH") Program Board recently considered whether a household owner with paid, full-time domestic employees could be considered a "small employer," eligible to offer group health benefits coverage to those domestic employees. The SEH Board concluded that a household employer meets the definition of a "small employer" if the household owner employs, on at least 50 percent of its working days during the preceding calendar quarter, at least two but not more than 49 full-time, paid, domestic employees meeting the definition of an "eligible employee."¹

In developing its interpretation of the law, the SEH Board noted that a primary goal of the SEH Act, N.J.S.A. 17B:27A-17 et seq., was to provide for guaranteed access to health benefits coverage to small employers. The Board also noted that it had previously determined that church groups and nonprofit institutions (entities that did not have a profit motive, but where there was an employer/employee relationship) were properly classified as "small employers" and, thus, were entitled to guaranteed access to health benefits coverage available

¹ An "eligible employee" means a full-time, paid employee who works a normal work week of 25 or more hours. The term includes a sole proprietor, a partner or a partnership, or an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefits plan of a small employer, but does not include employees who work less than 25 hours a week, work on a temporary or substitute basis or are participating in an employee welfare arrangement established pursuant to a collective bargaining agreement.

to other small employers. With these considerations in mind, the SEH Board determined that the law permits a household owner meet the definition of a “small employer” to provide health benefits to domestic employees where those employees meet the definition of an “eligible employee.” Consequently, carriers in the small employer market shall provide coverage to a household owner meeting the definition of a small employer who seeks group coverage for domestic employees.

As with any other small employer, carriers are permitted and encouraged to undertake a reasonable inquiry to determine whether the employer is a *bona fide* small employer. Carriers may require the household owner to provide tax records to prove that the employees are paid employees.