



Department of Commerce

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ADMINISTRATIVE NOTICE: 2013-05

Date: November 27, 2013

To: Health Insurance Providers / Issuers

From: Insurance Commissioner

Subject: CMS Transitional Policy for Individual and Small-group Health Plans

On November 14th, the Center for Consumer Information and Insurance Oversight (CCIIO) sent a letter to insurance commissioners informing them of the decision to allow health plans in the individual and small group market to be renewed up to October 1st, 2014, even if they are not compliant with the Affordable Care Act. This new policy extends the option for consumers to renew plans that are not compliant with the market reforms that become effective on January 1st, 2014. This decision was made to help smooth out the transition into ACA compliance and to ensure consumers are not cancelled from their plan or policy with no other affordable options to choose from.

Insurance companies may only offer a renewal option¹ on these non-compliant plans/policies and must fully inform the consumer of the coverage differences between a compliant and non-compliant policy. Insurance companies are prohibited from offering these older, non-compliant plans to new customers in 2014. According to this new policy, these renewed health plans must be compliant with all PHSA market reforms currently in effect for 2013 plans and policies and must comply with applicable 2014 market reforms for all plans beginning after October 1st, 2014.

This transitional policy provides leniency only for eligible² health plans. These eligible health plans may renew existing coverage in up to October 1st, 2014 which does not comply with the following provisions of the Public Health Service Act (PHSA) as amended in the ACA and any corresponding portions of the Employee Retirement Income Security Act (ERISA) and Internal Revenue Code³:

- Section 2701 (relating to fair health insurance premiums);
- Section 2702 (relating to guaranteed availability of coverage);
- Section 2703 (relating to guaranteed renewability of coverage);
- Section 2704 (relating to the prohibition of pre-existing condition exclusions or other discrimination based on health status), with respect to adults, except with respect to group coverage;
- Section 2705 (relating to the prohibition of discrimination against individual participants and beneficiaries based on health status), except with respect to group coverage;³

¹ Insurance companies are prohibited from offering this coverage to new enrollees.

² See following paragraph for a description of which health plans are eligible for this transitional policy.

³ <http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.PDF>

- Section 2706 (relating to non-discrimination in health care);
- Section 2707 (relating to comprehensive health insurance coverage);
- Section 2709, as codified at 42 U.S.C. § 300gg-8 (relating to coverage for individuals participating in approved clinical trials).

The following must be true for a health plan/policy to be eligible for this new transitional policy⁴:

- The coverage was in effect and in compliance with applicable market reforms on October 1, 2013;⁵
- The health insurance issuer sends a notice to all individuals and small businesses that received a cancellation or termination notice with respect to the coverage, **or** sends a notice to all individuals and small businesses that would otherwise receive a cancellation or termination notice with respect to the coverage, that informs them of:⁶
 - (1) Any changes in the options that are available to them;
 - (2) Which of the specified market reforms would not be reflected in any coverage that continues;
 - (3) Their right to enroll in health insurance coverage that complies with all of the specified market reforms.

Where individuals or small businesses have already received a cancellation or termination notice, the issuer must send this notice as soon as reasonably possible. Where individuals or small business would otherwise receive a cancellation or termination notice, the issuer must send this notice by the time that it would otherwise send the cancellation or termination notice.

On November 21st, CCIIO director, Gary Cohen, issued a letter⁷ introducing “Standard Notices for Transition to ACA Compliant Policies” to satisfy the notice requirement outlined above. These standard notices have been altered by the CNMI Insurance Commissioner to suit the needs of the CNMI, as there is no Health Insurance Marketplace available in this U.S. territory. However, these notices may not be altered further by the insurance carrier⁸. Please see these standard notices in attachments 1, 2, and 3 of this notice. These notices may include a cover letter, but must be sent separately from other plan

⁴ <http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.PDF>

⁵ This transitional policy does not apply to newly obtained health insurance coverage (enrolled after October 1, 2013).

⁶ These requirements were altered from the original letter to suit the CNMI’s circumstances, namely the absence of an insurance Marketplace

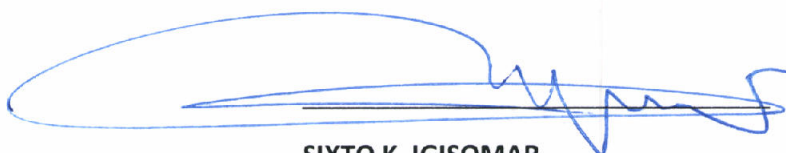
⁷ <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/standard-notice-bulletin-11-21-2013.pdf>

⁸ See FINAL FAQs on this transitional policy at <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/standard-notices-faq-11-21-2013.pdf>

material or correspondence, unless that material is related to premium changes associated with the renewal⁹. If your insurance company will avail of this transitional policy for any health plans being sold currently, please forward a copy the insurance plan effective date along with a copy of the notice sent to any individuals and small businesses who are enrolled in a transitional policy-eligible plan as defined in this notice. These notices are subject to the same fair marketing and business practices listed in Administrative Notice 2013-04 regarding “early renewal”.

Please note that this new compliance leniency does not apply to grandfathered health plans.

This administrative notice is intended only to clarify how the CNMI Insurance Section will adopt the transitional policy established by CCIIO on November 14, 2013. This notice has been issued for informational purposes and does not constitute legal advice.



SIXTO K. IGISOMAR

CNMI INSURANCE COMMISSIONER

⁹ See question A3 of the FINAL FAQs on the transitional policy for details
<http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/standard-notices-faq-11-21-2013.pdf>

Attachment 1

This notice must be used when a prior cancellation notice was sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We previously notified you that your current policy is being cancelled because it doesn't meet the minimum standards required by the health care law. We are now writing to inform you that, under federal guidance announced in November 2013, you may keep this coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance.

You can get new health insurance coverage which does comply with the market reforms listed above by enrolling in a new plan which has an effective date of January 1st, 2014 or later. Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition.

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

To learn more about protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

If you have questions about this notice, please contact us.

Or contact the CNMI Consumer Assistance Program for more information on your rights as a health insurance consumer at (670) 664-3005 or advocacyoffice@commerce.gov.mp

Attachment 2

This notice must be used when a prior cancellation notice has not been sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We are writing to inform you that, under federal guidance announced in November 2013, you may keep your existing coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance.

You can get new health insurance coverage which does comply with the market reforms listed above by enrolling in a new plan which has an effective date of January 1st, 2014 or later. Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition.

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

If you have questions about this notice, please contact us.

To learn more about protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

Or contact the CNMI Consumer Assistance Program for more information on your rights as a health insurance consumer at (670) 664-3005 or advocacyoffice@commerce.gov.mp

Attachment 3

The following language may be used to satisfy the requirement to notify policyholders (and participants and beneficiaries covered under such coverage) of the discontinuation of their policies. This language should be prominently displayed and placed before language, if any, about auto-enrolling an individual in a specific product:

How Do I Choose A Different Plan?

Even though this plan will no longer be offered, you have new options and rights for getting quality, affordable health insurance. You can get new health insurance coverage which does comply with all Affordable Care Act market by enrolling in a new plan which has an effective date of January 1st, 2014 or later. Most new plans guarantee certain protections, such as your ability to buy a plan even if you or you or your employees have a pre-existing condition.

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections. You have 60 days from the time your current plan ends to select a new plan that meets your needs.

How Can I Learn More?

If you have questions about this notice, please contact us.

To learn more about protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

Or contact the CNMI Consumer Assistance Program for more information on your rights as a health insurance consumer and your coverage options at (670) 664-3005 or dvocacyoffice@commerce.gov.mp