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DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
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## Bulletin 431

### Short-Term Health Insurance

The purpose of this bulletin is to provide guidance to carriers and producers on the requirements for short-term health insurance in Maine.

In August 2018, the federal government issued a rule that will apply to short-term policies sold on or after October 2, 2018.<sup>1</sup> Under this rule, the initial contract term of a short-term policy must be less than 12 months, and a carrier may not renew or extend the policy for more than 36 months. The rule also sets forth new consumer notice requirements.

Maine law also limits a short-term policy to a term that is less than 12 months.<sup>2</sup> However, Maine law further defines a short-term policy as nonrenewable and limits the combined term of successive short-term policies to 24 months.<sup>3</sup> This 24-month limit applies to successive policies regardless of whether the policies are issued by the same carrier or a different carrier. Maine law also provides that when offering a short-term policy, a carrier or the carrier's producer must provide written disclosure of the terms and benefits of the policy, including "[s]pecific disclosure that the short-term policy is not subject to any limitation on preexisting condition exclusions or the provisions of guaranteed renewal and continuity of coverage."<sup>4</sup> The federal rule recognizes that these types of state requirements are not preempted, and therefore, the Bureau will continue to enforce these requirements for short-term policies offered in Maine.

In addition, although short-term policies are not required to meet the essential health benefit requirements of the federal Affordable Care Act ("ACA"), these policies are still subject to many of Maine's mandated benefits for individual health insurance.<sup>5</sup> Short-term policies are also subject to additional requirements for health plans in Maine, such as coverage of preventive health services and the prohibition against aggregate dollar limits on coverage.<sup>6</sup> Rates must have an actuarially expected loss ratio of at least 50%; this is a "pure" MLR without any credibility adjustment or any of the modification to premiums or claims in the federal formula.<sup>7</sup> The policy forms and rates for

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<sup>1</sup> See Short-Term, Limited-Duration Insurance, 83 Fed. Reg. 38212 (Aug. 3, 2018).

<sup>2</sup> See 24-A M.R.S. § 2849-B(1).

<sup>3</sup> See 24-A M.R.S. § 2849-B(1) & (8).

<sup>4</sup> See 24-A M.R.S. § 2849-B(8).

<sup>5</sup> See 24-A M.R.S. ch. 33.

<sup>6</sup> See 24-A M.R.S. §§ 4318 & 4320-A (as amended by P.L. 2017, ch. 343). See generally 24-A M.R.S. ch. 56-A.

<sup>7</sup> See Bureau of Insurance Rule 945, § 7(B).



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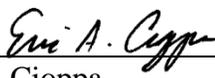
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short-term policies must be approved by the Bureau of Insurance before these policies can be offered in Maine. The current standards for the policy forms and rates are available online at: [www.maine.gov/pfr/insurance/regulated/insurance\\_companies/rate\\_form\\_checklists/life\\_health/index.html](http://www.maine.gov/pfr/insurance/regulated/insurance_companies/rate_form_checklists/life_health/index.html)

Although short-term policies may be appropriate for some consumers, producers should keep in mind that the federal regulation expressly describes short-term coverage as “a type of health insurance coverage that was primarily designed to fill temporary gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage.”<sup>8</sup> Short-term policies are exempt from ACA consumer protections such as guaranteed availability of coverage and coverage of pre-existing conditions, and these policies are subject to medical underwriting and rating under both Maine and federal law. A producer’s duty of competence includes ensuring that consumers considering these policies are fully advised of the terms, benefits, and limitations of the coverage.<sup>9</sup>

September 20, 2018

  
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NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.

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<sup>8</sup> Short-Term, Limited-Duration Insurance, 83 Fed. Reg. 38212, 38213 (Aug. 3, 2018).

<sup>9</sup> See 24-A M.R.S. § 1420-K(1)(H).