Bulletin 230

Individual and group health insurance

April 14, 1994

This bulletin clarifies the applicability of several provisions of Maine's health insurance reform laws (Title 24 M.R.S.A. Section 2350 and Title 24-A M.R.S.A., Sections 2736-C, 2808-B, and 2850).

GUARANTEED ISSUE OF SMALL GROUP POLICIES

Full-time Employment

Under the small group health insurance law, eligible employees are defined as those employees working on a full-time basis with a normal work week of 30 hours or more. The Bureau interprets "full-time" to mean employees working more than 26 weeks per calendar year. The weeks worked do not need to be consecutive. The definition of "full-time" is analogous to the definition found in Title 39-A M.R.S.A. Section 102. This same standard will be applied to the definition of an eligible group. If a business is in operation for more than 26 weeks during the year it qualifies as an eligible group.

Coverage for Part-time or Retired Employees

Effective April 1, 1994, Public Law 588 gives employers the option to include part-time or retired employees as eligible employees on their small group health insurance coverage. An employee is considered part-time if they work a normal work week of 10 or more hours. If the employer chooses to extend the policy to these employees, the insurance carrier is obligated to cover them.

Unacceptable Actively at Work Standards

No actively at work provisions may be used to delay coverage of an otherwise eligible employee. In addition, otherwise eligible dependents may not have coverage delayed because of a hospital or home confinement. For a group replacement, the extension of benefits for the totally disabled under the prior policy required by the continuity of coverage law still applies.

Employee Contribution Requirement

Requirements by small group carriers that employees must contribute a certain percentage towards the premium of their health coverage to issue the group policy are prohibited. No criteria other than those expressly authorized by the law may be used to restrict guaranteed issue of small group policies. However, this does not prevent an employer from setting a contribution percentage requirement for their employees.

GUARANTEED ISSUE OF INDIVIDUAL POLICIES

Medicare Eligibility

Guaranteed issue and renewal under individual policies is available until eligibility for Medicare. A provision in the Social Security Act prohibits selling or issuing a health insurance policy to an individual entitled to Medicare benefits "with knowledge that such policy duplicates health benefits to which such individual is otherwise entitled," including Medicare or Medicaid. This provision is found in 42 U.S.C. Section 1395ss(d)(3)(A).

EFFECTIVE DATE OF COVERAGE

There will be instances in which applicants will not be eligible for guaranteed issue coverage under the law's definition of eligibility. It is the Bureau's interpretation of the guaranteed issue provision that if review of an application reveals the applicant's ineligibility for coverage under the guaranteed issue

law, coverage may be denied (subject to any other applicable provisions of law) if the application makes it clear that coverage is subject to a finding of eligibility. However, where an applicant is eligible for guaranteed issue coverage under the law and has made a premium payment at the time of application, coverage is effective as of the initial date of application.

PRE-EXISTING CONDITION EXCLUSIONS

Insurers will not be permitted to deny claims based on a pre-existing condition if the application does not contain questions about prior coverage to determine continuity rights.

Any pre-existing condition exclusion exceeding 12 months, including a permanent exclusion, must be removed on the first policy anniversary on or after December 1, 1993. This means that no pre-existing condition may be excluded for more than 12 months from the effective date of the policy or certificate. This is based on the applicability provision of the original continuity law (1989 P.L. 867, Section 10).

FAIR MARKETING STANDARDS

Each carrier selling small group or individual health insurance must actively market these products. The carrier may not vary agent or broker compensation based on health status or claims experience. Also commissions may not be conditioned on a policy persisting for a minimum length of time.

COMMUNITY RATING

Rates for different plans may vary only based on differences in benefits, not differences in claim experience or health status. This applies to all plans and attached riders subject to 24-A M.R.S.A. Sections 2736-C and 2808-B, whether issued before or after the effective date of the law.

Rating restrictions in the law apply to all individual and small group policies renewed in Maine, regardless of where they were issued. If a policy renewed in Maine is on a form not approved in Maine, the renewal rate should be based on the most similar form approved in Maine, with appropriate adjustment for differences in benefits. A filing should be made and include: 1) the policy form, 2) the approved form on which the rate was based, and 3) an explanation of any adjustment for differences in benefits. If the form is not guaranteed renewable, or has pre-existing conditions exclusions in excess of those permitted by Maine law, it must be amended to comply.

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