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Department of Insurance

FORMS AND RATES BULLETIN 17

OUT OF STATE TRUSTS AND ASSOCIATIONS FILING
REQUIREMENTS: GROUP AND BLANKET HEALTH INSURANCE POLICIES

Adopted: July 31, 1996

I. SUMMARY:

A policy, certificate, or coverage for a health benefit plan offered to a resident of Delaware by an out-of-state trust or association, must be filed with the Commissioner unless the Commissioner has determined an out-of-state group is exempt under Section 3506. If the Commissioner determines that an out-of-state group does not qualify under Section 3506, the insurer must file all forms and rates for approval which are proposed for use in Delaware.

II. PURPOSE:

The purpose of this Bulletin is to provide guidance to insurers regarding the filing of group and blanket health insurance policies and certificates issued and delivered to a trust or an association outside of this State covering persons resident in this State. Any coverage offered and marketed as a major medical expense insurance which falls within the definition of "health benefit plan" (Section 7202(15)) under the Small Employer Health Insurance Act (Chapter 72 of Title 18, Delaware Code), must comply with the provisions of that Chapter.

III. STATUTORY REFERENCES

A. Title 18, Delaware Code, Chapter 27, Section 2712, "Filing, approval of forms", requires that group and blanket health insurance policies and certificates issued and delivered to a trust or an association outside of this State which will be delivered or issued for delivery in this State be filed with the Insurance Commissioner of this State.

B. Title 18, Delaware Code, Chapter 35, Section 3509, "Requirements for Other Groups; Out-of-State Groups", gives the Insurance Commissioner the authority to determine the legal compliance of out-of-state association or trusts with Section 3506 and requires the submission of documentation to assist in the determination of such authenticity.

C. Title 18, Delaware Code, Chapter 72, Section 7202(15), "Health Benefit Plan", exempts only the following lines of insurance from compliance with Chapter 72: coverage not considered "major medical;" accident-only; credit; dental; vision and disability income coverage issued as a supplement to liability insurance; worker's compensation or similar insurance; or automobile medical payment insurance. All other policies and certificates which offer hospital/medical coverage and qualify as major medical expense insurance and which cover small employers of this State must comply with the provisions of 18 Delaware Code, Chapter 72, "Small Employer Health Insurance".

D. Title 18, Delaware Code, Chapter 34, Section 3402, "Applicability and Scope," requires that all Medicare supplement insurance policies and certificates delivered or issued for delivery in this State be filed with the Insurance Commissioner of this State.

E. Title 18, Delaware Code, Chapter 71, Section 7104, "Extraterritorial Jurisdiction; Group Long-term Care Insurance", and Section 17 of Regulation 63 of the Delaware Insurance Code, requires that insurers file with the Insurance Commissioner evidence that a group policy or certificate issued in another state covering Delaware residents has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this State.

IV. STANDARDS FOR EXEMPTION FROM FILING REQUIREMENTS:

A. The Commissioner must determine the following before an out-of-state association or trust can issue certificates or policies in Delaware:

- (1) The issuance of such group policy is not contrary to the best interest of the public;
- (2) The issuance of the group policy would result in economies of acquisition or administration;
- (3) The benefits are reasonable in relation to the premiums charged; and
- (4) the group is not affiliated with or controlled by the insurer unless otherwise approved by the Insurance Commissioner.

B. To enable the Insurance Commissioner to make the findings described in paragraph A. of this section, the insurer shall file:

- (1) A copy of the group master contract;
- (2) A copy of the statute of the state where the group policy is issued, authorizing the issuance of the group policy under the same or similar statute;
- (3) Evidence of approval in the state where the group policy is issued;
- (4) Copies of all supportive documentation used by the company to secure approval of the group in that state including documentation required in subsection A.(1),(2), and (3);
- (5) A letter signed by an officer of the insurance company certifying that the insurer is not affiliated with the association, trust, or other entity deemed to be the policyholder;
- (6) Criteria for membership in the group for which certificates will be issued;
- (7) A letter signed by an officer of the company stating why the sale of such group health insurance policy would not in any way undermine the Department's objective of enforcing all provisions of statutes applicable to the sale of health insurance policies to Delaware residents; and
- (8) A summary description of each policy or certificate that will be issued, including the average annual premium rates (or range of premium rates in cases where premiums vary by age, gender or other factors) charged for such policies or certificates; and
- (9) Any other information requested by the Insurance Commissioner.

C. If the out-of-state group or association qualifies under the above criteria, it will be provided with an exemption from future filings.

V. FILING REQUIREMENTS FOR NON-EXEMPT GROUPS:

A. Every group or blanket insurance policy issued and delivered to a non-qualifying

Trust or an association under Section 3506, outside of this State covering persons resident in this State shall be filed with the Insurance Commissioner if the coverage is offered in Delaware

VI. MARKET CONDUCT:

A. Insures shall:

- (1) Establish marketing procedures to assure that out-of-state trust or association policies or certificates exempted under Section 7202(15) of Title 18, be clearly identified and marketed as supplemental health insurance and not as substitute for hospital or medical expense insurance or major medical expense insurance;
- (2) Maintain written documentation that the association or trust is not affiliated with or controlled by the insurer; and
- (3) Establish marketing procedures to assure that soliciting membership in the for the purpose of obtaining health insurance; and
- (4) Maintain sufficient records to demonstrate compliance with these marketing standards.

B. Insurers are reminded that violations of marketing provisions constitute unfair and prohibited practices under Title 18, Delaware Code, Chapter 23, Sections 2303 and 2304.