

State of Delaware



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Department of Insurance

FORMS AND RATES BULLETIN NO. 3

REQUIREMENT TO DISCLOSE ANY EXCLUSION OF WORK-RELATED INJURIES FROM HEALTH COVERAGE

Original No. 85-8
Adopted Sept 18, 1985
Amended April 15, 1992

PURPOSE:

The purpose of this bulletin is to ensure that companies and producers give proper notice to persons who are not covered under Delaware's Workers' Compensation laws of any exclusions for work-related injuries under their health policies.

PROBLEM:

The Department has received complaints from individuals denied benefits by the health insurer on the basis that the injury was work-related. Typically, these complaints arise from the self-employed, farmers, small businessmen, etc. Many health insurance policies reduce or exclude benefits for work-related injuries on the basis that workers' compensation benefits are available for injured workers.

REQUIREMENTS:

1. Title 18 Del. C. Section 3605(d) requires disclosure of non-coverage for work-related injuries on all extensions, renewals, modifications or amendments to policies issued after July 17, 1984. Section 3605(d) states in part:

"Every insurer or health service corporation electing to refuse coverage of an insured who is not included within Chapter 23 [Workers' Compensation Law] of Title 19, shall disclose to such applicant or insured in writing the fact of such non-coverage or declination of coverage. Any insurer or health insurer failing to disclose in writing such non-coverage or declination of coverage shall be deemed to cover the applicant or insured under the health insurance policy then in effect."

2. Regulation 46 "Individual Accident and Sickness Insurance Minimum Standards" applies to all accident and sickness policies issued in Delaware on or after June 20, 1985. This regulation establishes stringent disclosure requirements for both insurers and producers.

With its emphasis on full disclosure, Regulation 46 places a duty on the producer to point out this limitation to prospective clients who are not covered by Worker's Compensation. The agent must advise those prospective insureds that are not covered by workers' compensation if the policy to be issued does not cover, or limits benefits for work-related injuries. This duty is applicable to all policies issued after the effective date of Regulation 46 (June 20, 1985).

AGREEMENT:

Insurers are responsible for informing their agents of the contents of this Bulletin.