

State of Delaware



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Department of Insurance

FORMS AND RATES BULLETIN 11

COMPLIANCE WITH REGULATION 72 SMALL EMPLOYERS HEALTH INSURANCE

TO: All Life and Health Insurers, Health Service Maintenance Organizations and Health Service Corporations Licensed to sell Health Insurance in Delaware
All Agents, Producers and Brokers Licensed to Sell Health Insurance in Delaware

FROM: Donna Lee H. Williams, Insurance Commissioner, State of Delaware

DATE: January 25, 1993

PURPOSE:

The purpose of this Bulletin is to provide guidance to agents and insurers regarding the implementation dates and requirements under the following statutes and regulations.

I. REFERENCE:

- A. 18 Del. C., Chapter 72, Small Employer Health Insurance, effective January 1, 1992, which established that health insurance plans sold to groups of at least two (2) but no more than twenty-five (25) employees would be subject to restrictions relating to premium rates, restrictions relating to renewability, disclosure of rating practices and renewability provisions and maintenance of records.
- B. 18 Del. C., Chapter 72, effective January 4, 1993, which replaced previous Chapter 72, Small Employer Health Insurance.
- C. Insurance Department Regulation 72, Small Employer Health Insurance which implements 18 Del. C., Chapter 72, and which became effective January 4, 1993.

II. BACKGROUND:

The purpose of 18 Del. C., Chapter 72 and Regulation 72 are to provide for the availability of health insurance coverage to small employers, regardless of their health status or claims experience; to regulate insurer rating practices and establish limits on differences in rates between health benefit plans; to ensure renewability of coverage to establish limitations on underwriting practices, eligibility requirements and the use of preexisting exclusions; to provide for the development of "basic" and "standard" health insurance plans to be offered to all small employers; to provide for establishment of a reinsurance program; to direct the basis of market competition away from risk selection and toward efficient management of health care; and to improve the overall fairness and efficiency of the small group health insurance market.

III. APPLICABILITY:

- A. Chapter 72 and Regulation 72 shall apply to any health benefit plan, whether provided on a group or individual basis, which provides coverage to a small employer or twenty-five (25) or fewer employees of this state, without regard to whether the policy or certificate was issued in this state, and is in effect on or

after January 4, 1993. All such policies must be in complete compliance at time of renewal or January 4, 1994, whichever comes sooner.

B. Chapter 72 and Regulation 72 shall apply to individual policies sold to one or more employees of a small employer after January 4, 1993 if:

- a) the small employer has at least two employees, and
- b) the small employer contributes directly or indirectly to the premiums charged by the carrier, including, but not limited to the following conditions:
 - i) any portion of the premium or benefits is paid by or on behalf of the employee;
 - ii) the health benefit plan is administered by the small employer;
 - iii) an eligible employee or dependent is reimbursed whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;
 - iv) the health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of Section 162, Section 125, Section 106 of the United State Internal Revenue Code.

C. Section 7207(a)(3), Chapter 72, establishes that the requirement to insure all eligible members of a small employer group applies to small employer groups from two (2) to twenty-five (25).

IV. EFFECTIVE IMMEDIATELY:

- A. Restrictions relating to premium rates as found in previous Chapter 72.
- B. Guaranteed renewability of coverage, except for reasons cited in Section 7206(a), Chapter 72.
- C. Pre-existing conditions exclusions: no more than twelve (12) months after the effective date of coverage. (May exclude late enrollees up to eighteen [18] months).
- D. No modifications or restrictions excluding coverage or benefits for specific diseases, medical conditions or services otherwise covered under health benefit plans. Any riders, etc., on existing health benefit plans must be removed at time of renewal or anniversary date, whichever comes sooner.

V. REQUIREMENTS:

Review Chapter 72 and Regulation 72 for compliance with provisions regarding:

- A. Insurer notification to the Commissioner of intention to be a risk-assuming or reinsuring carrier;
- B. Filing with the Insurance Department of carrier's net health insurance premium derived from health plans delivered or issued for delivery to small employer in this state in the previous calendar year;
- C. Filing with the Insurance Department for approval of 'basic' and 'standard' health insurance plans;
- D. Requirement to restore coverage to any small employer whose coverage was terminated or not renewed by a small employer carrier after January 9, 1992.

Copies of 18 Del. C., Chapter 72 and Regulation 72 will be available from McCombs & Co., Inc., Box 47, Jenkintown, PA 19046, and NILS Publishing Co., P.O. Box 2507, Chatsworth, CA 91313-2507. Or send a pre-addressed, 9' x 12' envelope with at least \$1.56 in postage to:

REGULATION 72
The Delaware Insurance Department
841 Silver Lake Blvd.
Rodney Building

Dover, DE 19904

You may direct any questions you have to Marianne Chillas at (302) 739-4251.