



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER INSURANCE

June 12, 2014

RULING LETTER: CN-2014-178-D

TO ALL HEALTH INSURANCE ORGANIZATIONS AND INSURERS THAT WRITE HEALTH INSURANCE IN PUERTO RICO OTHER THAN MEDICARE ADVANTAGE OR MEDICARE SUPPLEMENTARY PLANS

EXTENSION OF THE TRANSITION PROCESS APPLICABLE TO CERTAIN HEALTH INSURANCE RENEWALS

Dear Sirs and Madams:

In Ruling Letter CN-2013-161-D The Office of the Commissioner of Insurance (“OCI”) adopted the transition policy promulgated by the US Department of Health and Human Resources (“HHS”) in November 2013 to allow the renewal of certain health insurance plans in the individual and small group market even when such plans do not comply with certain provisions of the Affordable Care Act (“ACA”).

On March 5, 2014, the HHS promulgated a Second Optional Extension for the transition period (the “Second Extension”). In view of the authorization by the HHS, our Office has decided to extend the transition for an additional period of time until September 30, 2015. That is to say, the OCI will allow certain individual and small group health insurance plans that terminate before October 1, 2015 to renew.

To that effect, we are providing the following requirements to comply with the Second Extension:

- 1) The Second Extension will only be applicable to individual and small group health insurance plans and whose policy year or coverage started before January 1, 2014, that were kept in effect and will be renewed between October 1, 2014 and September 30, 2015.
- 2) The Second Extension is not applicable to new enrollments. Therefore, the new guidelines are not applicable to new enrollments that enter into effect on or after January 1, 2014.

- 3) Health insurance plans that terminate after September 30, 2015 may not benefit from this Second Extension. It is further provided that our Office reserves the right to evaluate whether to extend the transition period for an additional term.
- 4) The renewed health insurance plan will have a maximum of one (1) year and may not be issued for a short-term policy. These transitory health insurance plans will terminate as their policy years terminate.
- 5) Renewed health insurance plans shall include the compulsory notifications that are included with this Letter as Appendix A or Appendix B, as applicable.
- 6) The only provisions of the ACA and of the Public Health Service Act (PHSA) that went into effect on January 1, 2014 and whose compliance is postponed for these health insurance plans, are the following:

1. Section 2701 - *Fair Health Insurance Premiums*

These plans will not be rated as single risk pools.

2. Section 2702 - *Guaranteed Availability of Coverage*
3. Section 2703 - *Guaranteed Renewability of Coverage*
4. Section 2704 - *Prohibition on Preexisting Condition Exclusions or Other Discrimination Based on Health Status*

Section 2704 will be in full effect for minors in group and individual health insurance plans and for adults in group plans. Therefore, Section 2704 is only set aside for adults in individual health insurance plans.

5. Section 2705 - *Prohibiting Discrimination Against Individual Participants and Beneficiaries Based on Health Status*

This section is repealed only with regard to individual health insurance plans.

6. Section 2706 - *Non-Discrimination in Health Care*
7. Section 2707 - *Comprehensive Health Insurance Coverage*
8. Section 2709 - *Coverage for Individuals Participating in Approved Clinical Trials, as codified in 42 U.S.C. § 300gg-8.*

- 7) Health insurance plans that are renewed under these guidelines will comply with the remaining provisions of the ACA and the PHSA that have not been excepted.
- 8) The renewed health insurance plan will have the same coverage as the previous plan.
- 9) Health insurance organizations and insurers have the responsibility to orient their insureds regarding the fact that the plans that are renewed under the Second Extension will not have all of the essential benefits or other protections provided in ACA that went into effect on January 1, 2014.
- 10) Enrollment in the renewed health insurance plan shall be voluntary and informed. Insurers and health insurance organizations will orient the insureds about the consequences of the renewal and will document the fact that they provided such orientation to the insureds.
- 11) Health insurance organizations and insurers that decide to renew their products under this Second Extension shall notify our Office on or before September 30, 2014. This notification will include the name of the product to be renewed along with the form number approved by the OCI.
- 12) Health insurance organizations or insurers that do not intend to renew a health insurance plan shall send a written notice to the insureds at least thirty (30) days termination date of the health insurance plan.
- 13) Insureds whose health insurance is not renewed will have a guaranteed special enrollment period of sixty (60) days in which to enroll in the plan of their preference that meets all of the legal requirements of the ACA and offered by the insurer or health insurance organization of their preference.

Health insurance organizations, insurers, and intermediaries will refrain from providing false, misleading, incorrect or any other information to coerce or dissuade insurers from obtaining medical insurance that complies with all of the

provisions of the ACA, as from any conduct that may constitute an unfair practice under Chapter 27 of the Puerto Rico Insurance Code or that violates any provision of the Puerto Rico Health Insurance Code or the ACA.

Strict compliance with the provisions of this Ruling Letter is hereby required.

Very truly yours,

SIGNED

Angela Weyne-Roig
Commissioner of Insurance

[This notice must be used when a prior cancellation notice was sent and the insurer or health insurance organization is providing an option to the policyholder to continue the existing coverage]

Dear Policyholder,

We previously notified you that your current policy is being cancelled because it does not meet the minimum standards required by the health care law, the Affordable Care Act, commonly known as “Obamacare.” We are now writing to inform you that under the federal guidance announced in March 2014, you may keep this coverage for an additional policy year.

How do I keep my current plan?

To keep your current plan, please contact us.

As you think about your options, there are several things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. That is to say, your health insurance may not include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that went into effect for coverage that began in 2014. As a result, your coverage:

- May not meet the standards for fair health insurance premiums, so you may be exposed to a higher premium based on factors such as gender or a pre-existing condition, and the plan will not have to comply with rules limiting the ability to charge older people more than younger people (Section 2701).
- May not meet standards for guaranteed enrollment, so it can exclude consumers based on factors such as a pre-existing condition (Section 2702).
- May not meet standards for guaranteed renewability (Section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult’s pre-existing condition (Section 2704).

- May not meet standards related to discrimination based on health status (Section 2705).
- May not meet standards for non-discrimination applicable to health providers (Section 2706).
- May not cover essential health benefits or limit annual co-pays, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (Section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (Section 2709).

How do I choose a different plan?

There are new options and rights for getting quality, affordable health insurance.

New health insurance plans include certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition.

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your protections.

How can I obtain more information?

If you need more information or you have a question, please contact the Office of the Commissioner of Insurance at (787) 304-2500 or by email at salud@ocs.gobierno.pr

For more information on protections under the health care act, visit HealthCare.gov or call 1-800-318-2596

If you have any questions, please contact us.

APPENDIX B

[This notice must be used when a prior cancellation notice has not been sent and the insurer or health insurance organization is providing an option to the policyholder to continue the existing coverage.]

Dear Policyholder,

We are now writing to inform you that under the federal guidance announced in March 2014, you may keep this coverage for an additional policy year.

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- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (Section 2704).
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- May not meet standards for non-discrimination applicable to health providers (Section 2706).
- May not cover essential health benefits or limit annual co-pays, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (Section 2707).
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