



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER INSURANCE

November 26, 2014

RULING LETTER: CN-2014-185-D

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

EXTENSION OF THE TRANSITION PROCESS UNTIL DECEMBER 31, 2016

Dear Sirs and Madams:

In Ruling Letter CN-2014-178-D the Office of the Commissioner of Insurance ("OCI") adopted the second optional extension to the transition period (the "Second Extension") promulgated by the US Department of Health and Human Services ("HHS") in March of 2014 to allow for the renewal of certain health insurance plans in the individual and small group market, even when such did not comply with certain provisions of the Affordable Care Act ("ACA") that entered into effect during 2014. Under the authority conferred by the HHS, our Office decided to extend the transition period for an additional term until September 30, 2015.

Nevertheless, the Second Extension promulgated by the HHS allowed for extending the transition period for compliance until 2016. After careful consideration and under the authority conferred by the HHS, we have decided to once again extend the transition period until December 31, 2016. That is to say, the OCI will adopt a "Third Extension" of the transition period in which it will allow the renewal for an addition 1-year period of certain individual and small group health insurance plans that expire before December 31, 2016.

For this purpose we are establishing the following requirements to comply with the extension:

- 1) The extension will only be applicable to individual and small group health insurance plans for which the policy or coverage began before January 1, 2014, that were maintained active, and will be renewed before January 1, 2017.
- 2) The extension is not applicable to new subscriptions. Therefore, the guidelines are not applicable to new subscriptions that are made on or after January 1, 2014.
- 3) Health insurance plans with a renewal date after December 31, 2016 may not use this extension.
- 4) The renewed health insurance plan will have a maximum duration of one (1) year and will not need to be issued for a short policy period. These transitional health insurance plans will expire as the policy year expires.
- 5) Renewed health insurance plans shall include the compulsory notice enclosed in this Letter as Appendix A or Appendix B, as may be applicable.
- 6) The only provisions of the ACA and the Public Health Service Act ("PHSA") that went into effect on January 1, 2014 and compliance of which is postponed for those health insurance plans, are the following:
 1. Section 2701- *"Fair Health Insurance Premiums"*
These health insurance plans do not have to be rated within a single risk pool.
 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 covered by 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 set aside only for 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 shall 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 health insurance plan.

- 9) Health insurers and health insurance organizations are responsible for orienting the insureds regarding the fact that the plans that are renewed under the Third Extension will not contain all of the essential benefits or other protection provided in the ACA, which entered into effect on January 1, 2014.

- 10) Enrollment for the renewed health insurance plan will be voluntary and informed. The insurers and health insurance organizations will orient the insureds regarding the consequences of the renewal and will document that they offered the orientation to the insureds.

- 11) Health insurance organizations and the insurers that decide to renew their products under this Third Extension shall notify our Office on or before January 31, 2015. This notification will include the name of the product to be renewed along with the number of the form approved by the OCI.

- 12) Health insurance organizations or insurers that do not intend to renew a health insurance plan shall send written notice to the insured at least thirty (30) days in advance of the expiration date of the health insurance plan.

- 13) In the case of insureds whose health insurance plans are not renewed, there will be a special guaranteed enrollment period of sixty (60) days in which to enroll in the health insurance plan of their preference and offered by the insurer of health insurance organization of their preference.

Health insurance organizations, insurers and any intermediary shall abstain from providing false, misleading, incorrect or any other information that tends to coerce or dissuade the insured from obtaining a health insurance plan that complies with all of

the provisions of the ACA, as well as from abstaining from any conduct that may constitute unfair practices pursuant to Chapter 27 of the Puerto Rico Insurance Code or that violates any provision of the Puerto Rico Puerto Rico Health Insurance Code or the ACA.

Strict compliance with this Ruling Letter is required.

Very truly yours,

SIGNED

Ángela Weyne-Roig
Commissioner of Insurance

APPENDIX A

[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 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).

Form: CSS-AS-02-007

- 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).

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