



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

April 28, 2016

RULING LETTER NO.: CN-2016-199-AS

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

DEFINITION OF A GROUP IN THE "PROTECTING AFFORDABLE COVERAGE FOR EMPLOYEES ACT" ("PACE ACT")

Dear Sirs and Madams:

The Office of the Commissioner of Insurance has the ministerial duty of implementing for the benefit of the public interest the provisions of the Health Insurance Code under applicable federal standards. In view of the recent changes in federal health reform legislation, a transition period is established for the implementation of the changes in the definitions of groups and small and medium employers, which will end on December 31, 2017.

Subparagraph K of Section 8.030 of the Puerto Rico Health Insurance Code defines the term small and medium employer (PYMES or small group). This definition provides that beginning on January 1, 2016 or subject to the provisions of the regulations related to the federal legislation, small and medium employers will be those that have up to one hundred employees. Subsequently, federal regulations under the Protecting Affordable Coverage for Employees Act (PACE) amended Section 1304(b) of the PPACA and Section 2791(e) of the Public Health Service Act for the purpose of continuing with the definition of small groups in which the employer had an average of up to fifty (50) employees on business days during the calendar year would be considered to be a small group. The PACE legislation granted the states and the insular jurisdictions the power to decide whether they wanted to keep the original definition of a small group or if they would adopt the definition established in the federal regulations.

On the other hand, in Ruling Letter 2016-198-AS, the Office of the Commissioner of Insurance adopted a transitional policy promulgated by the US Department of Health and Human Resources (“HHS”) for compliance with certain provisions of the Affordable Care Act (ACA). That Ruling Letter provided that the transition period for compliance will be extended to December 31, 2017 according to the HHS transition policy.

In view of all of the changes in the applicable federal regulations, of the legal power provided in Section 8.030, and with a view to furthering a coherent implementation of the health reform for Puerto Ricans, through this ruling letter the Office of the Commissioner of Insurance promulgates a transition period during which the PACE provisions will be adopted. Therefore, those employers who had up to fifty (50) employees during at least fifty percent (50%) of all working days during the previous calendar year will be considered small groups. Employers who had more than fifty (50) employees during at least fifty percent of the business days in the previous calendar year will continue to be considered large groups for regulatory purposes. This transition period will be in effect until December 31, 2017, so that after that date, the definition of a small or medium sized company (Spanish acronym PYMES) will be applicable to companies that have up to 100 employees.

This Ruling Letter sets aside Circular Letter Number CC-2015-1868-D, dated November 24, 2015.

Very truly yours,

SIGNED

Ángela Weyne-Roig
Commissioner of Insurance