



GOVERNMENT OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

March 6, 2017

RULING LETTER NO.: CN-2017-217-AS

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

EXTENSION TO SEPTEMBER 30, 2018 OF THE TRANSITION PROCESS APPLICABLE TO CERTAIN HEALTH INSURANCE RENEWALS

Dear Madams and Sirs:

The Office of the Commissioner of Insurance ("OCI") through Ruling Letter CN-2013-161-D, adopted the transition policy promulgated by the US Department of Health and Human Resources ("HHS") in November of 2013, to allow for the renewal of certain health insurance plans in the individual and small groups market, even when these did not comply with certain provisions of the Affordable Care Act ("ACA"). Subsequently, two additional extensions were approved¹ for the transition period that allowed for renewal of health insurance plans until December 31, 2017.

On February 23, 2017, HHS promulgated another optional extension for the transition period ("Fifth Extension"). In this regard our Office has decided to extend the transition period according to the Fifth Extension promulgated by the HHS for an additional term until September 30, 2018. It is further provided that the final deadline for the termination of transitory health insurance plans is December 31, 2018. Thus, the OCI will allow renewal for an additional period for certain individual and small group health insurance plans that expire before October 1, 2018, provided that they comply with the following guidelines:

- 1) The Fifth Extension shall only apply to individual and small group health insurance plans whose policy year or coverage began before January 1, 2014, that remained in effect without changes in coverage, and will be renewed until September 30, 2018.

¹ See Ruling Letters CN-2014-178-D, CN-2014-185-D, and CN2016-198-AS.

- 2) The Fifth Extension is not applicable to new subscriptions. Therefore the new guidelines are not applicable to new subscriptions that have occurred on or after January 1, 2014.
- 3) This Fifth Extension is not applicable to health insurance plans with an expiration date after September 30, 2018.
- 4) Renewed health insurance plans will have a maximum duration of one (1) year. It is further provided that health insurance plans that expire between January 1, 2018 and September 30, 2018, must expire on December 31, 2018, even when the policy year has not ended. For example, this means that the term of a plan that is renewed as of September 1, 2018, may only have a duration of three months, in order to comply with the requirement of expiring on December 31, 2018.
- 5) Renewed health insurance plans shall include the compulsory notice included with this Letter as Enclosure A.
- 6) The only ACA and Public Health Service Act (PHSA) provisions that entered into effect on January 1, 2014, and compliance with which is being postponed for these health insurance plans, are the following:
 - A. Section 2701 - "*Fair Health Insurance Premiums*"

These plans will not be rated in a single risk pool.
 - B. Section 2702 - "*Guaranteed Availability of Coverage*"
 - C. Section 2703 - "*Guaranteed Renewability of Coverage*"
 - D. 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 exclusively for adults in individual health insurance plans.
 - E. Section 2705 - "*Prohibiting Discrimination Against Individual Participants and Beneficiaries Based on Health Status*"

This section is set aside only in individual health insurance plans.
 - F. Section 2706- "*Non-Discrimination in Health Care*"
 - G. Section 2707 - "*Comprehensive Health Insurance Coverage*"

H. Section 2709 - "*Coverage for Individuals Participating in Approved Clinical Trials*", as certified 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 shall have the same coverage of the previous plan. Coverage will only be modified to add the benefits required by law.

9) Health insurance organizations and insurers are responsible for advising insurers regarding the fact that health insurance plans that are renewed under the Fifth Extension will not contain all of the essential benefits or other protection provided under the ACA.

10) Subscription in the renewed health insurance plan will be voluntary and informed. Insurers and health insurance organizations will advise the insured regarding the consequences of the renewal and will document the manner in which they provided such orientation to the insureds.

11) Health insurance organizations and the insurers that decide to renew their products according to this a Fifth Extension shall notify our Office on or before May 31, 2017. This notice shall include the name of the product that will be renewed along with the form number approved by the OCI.

12) Rate increases of 10% or more of the transition health insurance plans offered by an insurer require prior approval by this Office. Any rate increase of a transitional health insurance plan offered by a health services organization requires approval by this Office.

13) Health insurance organizations or insurers shall send a written notice to the insured at least sixty (60) days before the expiration date of the transition health insurance plan in compliance with the provisions of Ruling Letter 2017-218-AS. The notices required in Ruling Letter 2017-218-AS are applicable if the insurer or health insurance organization decides renew the transition health insurance plan or if such decides instead to offer metallic health plans ("ACA-compliant").

14) Insureds whose health insurance plans are not renewed shall have a special guaranteed subscription period of sixty (60) days in which to subscribe to the health insurance plan of their preference that complies with all of the ACA legal requirements and offered by the insurer or health insurance organization of their preference.

Health insurance organization, insurers, and all intermediaries shall refrain from providing false, misleading or incorrect information or any information that tends to

coerce or discourage the insured from obtaining a health insurance plan that complies with all of the ACA provisions, as well as from abstaining from any conduct that constitutes 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 this Ruling Letter is hereby required.

Sincerely,

Javier Rivera-Ríos
Commissioner of Insurance

ENCLOSURE A

Dear insured:

We are writing to inform you that according to the federal guidelines announced in February of 2017, you may retain your existing health insurance for one more policy year. It is further provided that, if the renewal date occurs between January 1, 2018 and September 30, 2018, the expiration date of your health insurance will be December 31, 2018.

According to applicable law, sixty days before the renewal of your health insurance plan you will receive a written notice indicating that your health insurance plan will expire soon and that you have the right to continue with your current health insurance plan (if the insurer or health insurance organization offers you that option) or to explore the large variety of health insurance plans that meet all of the protections of the Affordable Care Act and the Puerto Rico Health Insurance Code, offering several options for coverage and premiums. Premiums and coverages will be published in the health insurance section of the Office of the Commissioner of Insurance's website (www.ocs.gobierno.pr)

How can I keep my current health insurance plan?

If you want to keep your current health insurance plan, contact us.

There are several factors that you should bear in mind in considering options. If you decide to renew your current health insurance plan, that plan will NOT provide all of the rights and protections of the Affordable Care Act and the Health Insurance Code. That means that your health insurance plan might not include one or more of the following new protections that were added in the health care act and that went into effect for coverage that began in 2014.

As a result of this, your coverage:

- Might not meet the standards for fair premiums for health insurance plans, so that you would be exposed to being charged a higher insurance premium based on factors such as gender or any preexisting condition, and the plan would not be obligated to meet the standards that prevent higher charges for sick persons than for well persons (section 2701).
- Might not meet the standards for guaranteed subscription, so that a consumer may be excluded based on factors such as a preexisting health condition (section 2702).

- Might not meet the standards for guaranteed renewal (section 2703).
- Might not meet the standards related to the preexisting conditions of adults, so that coverage for treatment for a preexisting condition of an adult might be excluded (section 2704). This might occur only for adults with individual health insurance plans. Coverage may NOT be denied for a preexisting health condition for minors with individual and group health insurance plans and adults with a group health insurance plan (employer plan).
- Might not meet the standards related to discrimination based on health status (section 2705). This could happen only with adults in individual health insurance plans. Coverage may NOT be denied due to discrimination for health status for minors with individual and group health insurance plans and for adults with a group health insurance plan (employer plan).
- Might not meet the anti-discrimination standards applicable to health providers (section 2706).
- Might not cover essential health benefits, so that it possibly might not cover benefits such as pharmacy and could have unlimited cost-sharing (section 2707).
- Might not meet the standards related to participation in clinical trials, so that possibly you might not have coverage for services related to clinical trials for a serious or life-threatening health condition (section 2709).

How do I select a different insurance plan from the one I have now?

There are new options and rights that you may obtain in a high quality health insurance plan and within your budget, and you might even obtain a more favorable premium than what you currently have. You may verify your options by visiting the health insurance section of the Office of the Commissioner of Insurance's website (www.ocs.gobierno.pr) or asking the authorized representative of an insurer or health insurance organization for the Summary of Benefits and Coverage of the health insurance plan you are interested in.

New health insurance plans include many protections, such as the right to acquire a health insurance plan, even when you or your employees have a preexisting condition.

You should consider your options as soon as possible, since the period during which you may acquire coverage and retain the protections is limited.

How can I obtain more information?

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

To obtain more information on the protection under the health care act, you may visit HealthCare.gov or call 1-800-318-2596.

If you have any questions, you may also contact us at the following telephone number

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