



GOVERNMENT OF PUERTO RICO
Office of the Commissioner of Insurance

March 20, 2018

RULING LETTER NO.: CN-2018-238-AS

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 UP TO SEPTEMBER 30, 2019

Dear Sirs and Madams:

In Ruling Letter CN-2013-161-D, dated November 18, 2013, the Office of the Commissioner of Insurance ("OCI") adopted the transition policy promulgated by the US Department of Health and Human Services ("HHS") in November 2013 to allow the renewal of certain health insurance plans in the individual and small group market, even when these did not comply with certain provisions of the Affordable Care Act ("ACA"). Subsequently, four additional extensions were approved for the transition period¹ allowing renewal of health insurance until December 31, 2018.

In spite of the fact that to date HHS has not made any statement regarding additional extensions to the transition period ("Sixth Extension"), our Office has decided to extend the transition period for an additional term until September 30, 2019. It is further provided that the final expiration date of transition health insurance plans is December 31, 2019. That is to say, the OCI will allow renewal for an additional period for certain individual and small group health insurance plans that expire before October 1, 2019, provided they comply with the following guidelines:

- 1) The Sixth Extension shall only be applicable to individual and small group health insurance plans whose policy year or coverage began before January 1, 2014, that were maintained without any change in coverage, and that will be renewed until September 30, 2019.
- 2) The Sixth 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.

¹ See Ruling Letters CN-2014-178-D, CN-2014-185-D, CN-2016-198-AS, and CN-2017-217-AS



- 3) Health insurance plans with an expiration date later than September 30, 2019 may not benefit from the Sixth Extension.
- 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, 2019 and September 30, 2019 shall terminate on December 31, 2019, even when the policy year has not been completed. For example, this means the term of a plan that was renewed as of September 1, 2019 will only have a duration of three (3) months in order to comply with the requisite that it should terminate as of December 31, 2019.
- 5) Renewed health insurance plans shall include the compulsory notice that is included with this Letter as Enclosure A.
- 6) The only provisions of ACA and the Public Health Service Act (PHSA) that entered into effect as of January 1, 2014 and the fulfillment of which is postponed for these health insurance plans, are the following:
 - A. Section 2701 - "*Fair Health Insurance Premiums*"
These health insurance plans will not be rated within 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 is 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.
 - E. Section 2705 - "*Prohibiting Discrimination Against Individual Participants and Beneficiaries Based on Health Status*"
This section is set aside only for 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 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 ACA and PHSA that have not been excepted.
- 8) The renewed health insurance plan shall have the same coverage as the previous plan. Coverage will only be modified to add benefits as required by law.

- 9) Health insurance organizations and insurers are responsible for orienting the insured regarding the fact that their renewed health insurance plans under the Sixth Extension will not contain all essential benefits or other protections provided for in ACA.
- 10) Subscription to the renewed health insurance plan will be voluntary and informed. Insurers and health insurance organization will orient insureds regarding the consequences of renewal and will document that they provided the insured with orientation.
- 11) Health insurance organization and insurers that decide to renew their products pursuant to this Sixth Extension shall notify our Office on or before May 31, 2018. The notice shall include the name of the product to be renewed and the form number, as approved by the OCI.
- 12) Increases of 10% or more in the rates of transition health insurance plans provided by insurers must have prior approval by our Office. Any increase in the rate of a transition health insurance plan offered by a health services organization requires prior approval by our Office.
- 13) Health insurance organizations or insurers shall send written notice to the insured at least sixty (60) days before the termination date of the transition health insurance plan in compliance with the provisions of Ruling 2018-236-AS. The notices required in Ruling Letter 2018-236-AS are applicable if the insurer or health insurance organization decides to renew the transition health insurance plan as well as if the insurer or health insurance organization decides to not renew the transition health insurance plan and offer instead metallic health insurance plans ("ACA-compliant").
- 14) The insured whose health insurance has not been 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 legal requirements of ACA and offered by the insurer or health insurance organization of the insured's preference.

Health insurance organizations, insurers, and all intermediaries shall refrain from providing false, misleading, or inaccurate information or any other information that would tend to coerce or dissuade insureds from obtaining health insurance plans that comply with all of the ACA provisions, as well as refraining from engaging in a conduct that constitutes unfair practices under Chapter 27 of the Puerto Rico Insurance Code or that violates any provision of the Puerto Rico Health Insurance Code or ACA.

Strict compliance with this Ruling Letter is hereby required.

Very truly yours,

Javier Rivera-Ríos, LUCTF
Commissioner of Insurance

Enclosure

ENCLOSURE A

Dear insured:

We are writing to advise you that under guidelines set forth by the Office of the Commissioner of Insurance of Puerto Rico in March 2018, you may retain your existing health insurance plan for one additional policy year. It is further provided, that if the renewal date occurs between January 1, 2019 and September 30, 2019, the termination date of your health insurance plan will be December 31, 2019.

Pursuant to applicable law, sixty (60)days before the renewal of your health insurance plan you will receive 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 grants you this option) or to explore a large variety of health insurance plans that comply with all of the protections of the Affordable Care Act and the Puerto Rico Health Insurance Code and that provide several coverage and premium options. Premiums and coverage shall be published in the health insurance section on the website of the Office of the Commissioner of Insurance (www.ocs.gobierno.pr)

How can I retain my current health insurance plan?

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

They are several factors that you should bear in mind when considering your 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. This means that your health insurance plan may possibly not include one or more of the following new protections that were added in the health care act and that entered into effect for coverage that began in 2014.

As a result, your coverage:

- May not comply with the standards regarding fair premiums for health insurance, so that you would be exposed to be being charged a higher insurance premium based on factors such as gender or a pre-existing condition, and the plan would not have to comply with the standards that prevent charging more to people with health conditions than to healthy people (section 2701).
- May not comply with the standards for guaranteed subscription, so that a consumer may be excluded bases on factors such as a pre-existing health condition (section 2702).
- May not comply with guaranteed renewal standards (Section 2703).

- May not comply with standards related to pre-existing conditions in adults, so that coverage for treatment of a pre-existing condition in an adult is excluded (Section 2704). This can only happen to adults with individual health insurance plans. Minors in individual and group health insurance plans and adults in a group health insurance plan (of an employer), CANNOT be denied coverage for a pre-existing health condition.
- May not comply with standards related to discrimination based on a health conditions (Section 2705). This can only happen with adults who have individual health insurance plans. Minors in individual and group health insurance plans and adults in group health insurance plans (through an employer), may NOT be denied coverage in a discriminatory manner due to a health condition.
- May not comply with applicable anti-discrimination standards for health providers (Section 2706).
- May not cover essential health benefits, so that benefits such as pharmacy may not be covered and may have unlimited cost-sharing (Section 2707).
- May not comply with standards of participation in clinical trials, so that possibly you may not have coverage for services related to clinical trials for a severe or life-threatening health condition (Section 2709).

How do I choose a health insurance plan that is different from the one I have now?

There are new options and rights to enable you to obtain a high quality affordable health insurance plan and you may even be able to obtain more favorable premiums that you have now. You may verify your options by visiting the health insurance section of the Office of the Commissioner of Insurance (www.oci.gobierno.pr) or requesting a Summary of Benefits and Coverage of the health insurance plan you are interested in from the authorized representative of the insurer or health insurance organization.

New health insurance plans contain many protections, such as the right to acquire health insurance even when you or your employees have a pre-existing condition. You should consider your options as soon as possible, since the period during which you may acquire coverage and retain protections is limited.

How can I obtain more information?

If you need more information or have any questions, you may contact the Office of the Commissioner of Insurance at (787) 304-8686 or by email at salud@oci.gobierno.pr.

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