



GOVERNMENT OF PUERTO RICO  
Office of the Commissioner of Insurance

April 22, 2019

**RULING LETTER NO.: CN-2019-250-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 TRANSITORY PROCESS APPLICABLE TO CERTAIN RENEWALS OF HEALTH INSURANCE PLANS UNTIL SEPTEMBER 30, 2020**

Dear Sirs and Madams:

The Office of the Commissioner of Insurance ("OCI"), in Ruling Letter CN-2013-161-D, dated November 18, 2013, adopted the transitory 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 these do not meet certain requirements of the Affordable Care Act ("ACA"). Subsequently, five additional extensions were approved for the transitory period<sup>1</sup> that allowed the renewal of health insurance plans until December 31, 2018.

On March 25, 2019, HHS promulgated another optional extension to the transitory period ("Seventh Extension"). In this regard, our Office has decided to extend the transitory period in accordance with the Seventh Extension promulgated by HHS for an additional term until September 30, 2019. It is further provided that the final expiration date of the transitory health insurance plans is December 31, 2020. 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, 2020, provided they comply with the following guidelines:

- 1) The Seventh Extension will only be applicable to individual and small group health insurance plans whose policy year or coverage began before January 1, 2014, that remained in effect without any changes in coverage, and that will be renewed until September 30, 2020.
- 2) The Seventh Extension is not applicable to new subscriptions. Therefore, the new guidelines are not applicable to new subscriptions that were done on or before January 1, 2014.
- 3) Health insurance plans with an expiration date after September 30, 2020 are not covered by this Seventh Extension.
- 4) Renewed health insurance plans shall have a maximum duration of one (1) year. It is further provided that the plans that expire between January 1, 2020 and September 30, 2020 shall

<sup>1</sup> See Ruling Letters CN-2014-178-D, CN-2014-185-D, CN-2016-198-AS, CN-2017-217-AS, and CN-2018-238-AS.



expire on December 31, 2020, even when the policy year has not been completed. For example, this means that the term of a plan that is renewed as of September 1, 2020 may only have a duration of three (3) months in order to meet the requirement that it should expire on December 31, 2020.

- 5) Renewed health insurance plans shall include the compulsory notification included with this Letter as Appendix A.
- 6) The only provisions of ACA and the Public Health Service Act ("PHSA"), which came into effect on January 1, 2014 and the compliance 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 with 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 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) Renewed health insurance plans under these guidelines will comply with the remaining provisions of ACA and the PHSA that have not been excepted.
- 8) The renewed health insurance plan shall have the same coverage of the previous health insurance plan. Coverage may only be modified to add benefits required under the law.
- 9) Health insurance organizations and insurers are responsible for orienting the insureds with regard to the fact that the renewed health insurance plans under the Seventh Extension will not contain all of the essential benefits, or other protection provided in ACA.

- 10) Enrollment in the renewed health insurance plan shall be voluntary and informed. Insurers and health insurance organizations will orient the insureds regarding the consequences of renewal and will document that they provided such to the insureds.
- 11) Health insurance organizations and insurers that choose to renew their products according to this Seventh Extension shall notify the OCI Actuarial Analysis Division on or before May 31, 2019. This notice shall include the name of the product and its form number, as approved by the OCI.
- 12) The increases of 10% or more in the transitory health insurance plans rates offered by an insurer must receive prior approval by our Office. Any increase in the rates of a transitory health insurance plan of a health services organization requires approval by our Office.
- 13) Health insurance organizations or insurers will send written notice to insureds at least sixty (60) days in advance of the expiration date of the transitory health insurance plan in compliance with the provisions of Ruling Letter 2019-249-AS. The notices required in Ruling Letter 2019-249-AS are applicable if the insurer or health insurance organization decides to renew the transitory health insurance plan as well as if the insurer or health insurance organization should decide to renew such transitory plan and instead offer their metallic health insurance plans ("ACA-compliant").
- 14) Insureds whose health insurance is not renewed shall have a special 60-day guaranteed enrollment period in which to enroll in the health insurance plan of their preference that meets all of the legal requirements under ACA and offered by the insurer or health insurance organization of the insured's preference.

Health insurance organizations, insurers and all other intermediaries shall refrain from providing false, misleading, or incorrect information or any other information tending to coerce or dissuade insureds with regard to obtaining medical insurance that complies with all ACA provisions, as well as from refraining from any conduct that constitutes unfair practices under Chapter 27 of the Puerto Rico Insurance Code or that infringes 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  
Commissioner of Insurance

## APPENDIX A

Dear insured,

We are writing you to inform you that according to the guidelines issued by the Office of the Commissioner of Insurance of Puerto Rico in April 2019, you may keep your existing health insurance plan for one additional policy year. It is also provided that if the renewal date is between January 1, 2020 and September 30, 2020, the expiration date of your health insurance plan will be December 31, 2020.

Under applicable law, sixty (60) days before the renewal of your health insurance plan, you will receive written notice indicating that your plan is about to expire and that you have a right to continue with your current health insurance plan (if the insurer or health insurance organization gives you that option) or to explore the wide range 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. The premiums and coverages are published in the health insurance section of the Office of the Commissioner of Insurance website ([www.oci.gobierno.pr](http://www.oci.gobierno.pr))

### **How can I keep my current insurance plan?**

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

There are several factors that you should take into consideration when evaluating your options. If you decide to renew your current health insurance, that plan will NOT provide you with all of the rights and protections of the Affordable Care Act and the Health Insurance Code. That is to say, your health insurance plan possibly will not include one or more of the following new protections that were added to the health care act and that came into effect for coverages that began in 2014.

As a result of this, your coverage:

- Might not comply with the guidelines regarding fair premiums for health insurance plans, so that you would be exposed to be charged a higher insurance premium based on factors such as gender or a preexisting condition, and the plan will not have the obligation to comply with the guidelines that prevent persons with an illness being charged more than healthy persons (section 2701).
- Might not comply with the guidelines on guaranteed enrollment, so that a consumer may be excluded based on factors such as a preexisting health condition (section 2702).
- Might not comply with the guidelines on guaranteed renewal (section 2703).
- Might not comply with the guidelines related to preexisting conditions of adults, so that coverage of treatment for a preexisting condition of an adult is excluded (section 2704). This could happen only to adults in individual health insurance plans. Minors in individual and

group health insurance plans and adults in group health insurance plans (of an employer), may NOT be denied coverage for a preexisting health condition.

- Might not comply with the guidelines related to discrimination based on a health condition (section 2705). This could happen only to adults in individual health insurance plans. Minors in individual and group health insurance plans and adults in group health insurance plans (of an employer), may NOT be denied coverage in a discriminatory manner due to a health condition.
- Might not comply with the non-discrimination guidelines applicable to health care providers (section 2706).
- Might not cover essential health benefits so that it may not cover benefits such as pharmacy and could have unlimited cost-sharing (section 2707).
- Might not comply with the guidelines on participating in clinical trials, so that possibly there is no coverage for services related to clinical trials for a serious 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 so that you can obtain an affordable high-quality health insurance plan and even obtain more favorable premiums than you have now. You may verify your options by visiting the health insurance section of the Office of the Commissioner of Insurance ([www.ocs.gobierno.pr](http://www.ocs.gobierno.pr)) or requesting from an authorized representative of an insurer or health insurance organization a Benefits and Coverage Summary of the plan that you are interested in.

The new health insurance plans include may protections, such as your 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 keep the 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@ocs.pr.gov](mailto:salud@ocs.pr.gov).

For more information about the protection afforded by the health care act, visit [HealthCare.gov](http://HealthCare.gov) or call 1-800-318-2596.

If you have any questions, you may also contact us at telephone \_\_\_\_.