



GOVERNMENT OF PUERTO RICO
Office of the Commissioner of Insurance

February 25, 2020

RULING LETTER NO.: CN-2020-263-AS

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

EXTENSION OF THE TRANSITION PROCESS APPLICABLE TO RENEWAL OF CERTAIN HEALTH INSURANCE PLANS UP TO SEPTEMBER 30, 2021

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 transition policy of the US Health and Human Resources Department ("HHS") in November 2013 to allow the renewal of certain health insurance plans in the individual and small group market, even when such did not meet certain requirements of the Affordable Care Act ("ACA"). Subsequently, six additional extensions were approved for the transition period¹ that would allow for the renewal of health insurance until September 30, 2020.

On January 31, 2020, HHS promulgated another optional extension of the transition period (the Eighth Extension). In this regard, this Office has decided to extend the transition period according to the Eighth Extension promulgated by HHS for an additional year up to September 30, of 2021, and it is further provided that the final expiration date of transition health insurance plans is December 31, 2021. That is to say, the OCI will allow the renewal for an additional period of certain individual and small health insurance plans that expire before October 1, 2021, provided they comply with the following guidelines:

- 1) The Eighth Extension will only apply to individual and small group insurance whose policy years or coverage began before January 1, 2014, which have remained in effect without changes in coverage, and will be renewed until September 30, 2021.
- 2) The Eighth Extension is not applicable to new subscriptions. Therefore, the new guidelines are not applicable to subscription that took place on or after January 1, 2014.

¹ See Ruling Letters CN-2014-178-D, CN-2014-185-D, CN-2016-198-AS, CN-2017-217-AS, CN-2018-238-AS, and CN-2019-250-AS.



- 3) Health insurance plans whose expiration date is after September 30, 2021 may not make use of the Eighth Extension.
- 4) Renewed health insurance will have a maximum duration of one (1) year, and it is further provided that health insurance that expires between January 1, 2021 and September 30, 2021 will expire on December 31, 2021, even though the policy year has not elapsed. For example, this means that the term of a health insurance plan that was renewed as of September 1, 2021 will only have a duration of three (3) month in order to comply with the requirement that it should expire as of December 31, 2021.
- 5) Renewed health insurance shall include the mandatory notice that is included with this Letter as Enclosure A.
- 6) The only provisions of ACA and the "Public Health Service Act" ("PHSA"), that went into effect on January 1, 2014 and the implementation of which is postponed for these health insurance plans are the following:
 - A. Section 2701 - "*Fair Health Insurance Premiums*"

These health insurance plans are not 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 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 codified 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 Eighth

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 Eighth Extension shall notify the Actuarial Analysis Division of the OCI on or before May 31, 2020. This notice shall include the name of the product that will be renewed and 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 2020-262-AS. The notice is applicable if the insurer or health insurance organization decides to 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 organizations, 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.

Very truly yours,

Rafael Cestero-Lopategui
Chief Deputy Commissioner

ENCLOSURE A

Dear insured:

We are writing to inform you that according to the guidelines established by the Office of the Commissioner of Insurance of Puerto Rico in February 2020, 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, 2021 and September 30, 2021, the expiration date of your health insurance will be December 31, 2021.

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) 304-8686 or by email at salud@ocs.pr.gov.

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, 787-304-8686, Ext. 4100.