

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE

DEPARTMENT OF STATE
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Secretary of State
By: Francisco José Martín-Caso
Assistant Secretary for Services

RULE NO. 89

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Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
Guaynabo, Puerto Rico

RULE NO. 89

"STANDARDS FOR THE DETERMINATION OF ELIGIBILITY OF AN UNEMANCIPATED MINOR OR A LEGALLY INCAPACITATED PERSON TO BE A DIRECT DEPENDENT IN A FAMILY HEALTH PLAN"

SECTION 1. LEGAL BASIS

The Secretary of the Treasury, along with the Health Insurance Administration, hereinafter "ASES," and the Office of the Commissioner of Insurance of Puerto Rico, hereinafter the "OCI", adopt Rule No. 89, under the provisions of Section 3 of Public Law No. 15, enacted on February 27, 2007, hereinafter Public Law No. 15, as amended by Public Law No. 116, enacted on July 17, 2008; and Public Law No. 170, enacted on August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act," as amended.

SECTION 2. PURPOSE AND SCOPE

This Rule is adopted for the purpose of establishing the specific circumstances under which an unemancipated minor or a legally incapacitated person may be classified as a direct dependent of a grandfather, grandmother or relative, who is a policyholder or principal insured of a family health care plan, under Public Law No.15.

This Rule will be applicable to all disability insurers authorized to write health care insurance in the Commonwealth of Puerto Rico, and to all health services organizations authorized to issue health care plans in the Commonwealth of Puerto Rico, including participants under Public Law No. 95, enacted on June 29, 1963, as amended, known as the Health Benefits for Public Employees Act, and those that participate in the Government Health Insurance administered by the ASES, under the

provisions of Public Law No. 72, enacted on September 7, 1993, as amended, and any other duly organized entity that is authorized to offer public or private health plans in the jurisdiction of the Commonwealth of Puerto Rico, under any other legislation.

SECTION 3. DEFINITIONS

For the purposes of this Rule, the terms set forth below will be defined as follows:

- (a) Legally incapacitated person – a person found to be legally incapacitated by a Court of competent jurisdiction in the Commonwealth of Puerto Rico, by entering a final Order and appointing a guardian under guardianship procedures established in the Puerto Rico Civil Code and the applicable provisions of the Puerto Rico. Code of Civil Procedure.
- (b) Unemancipated minor - any minor as defined in the Puerto Rico Civil Code who has not been emancipated as provided for such purposes in the Puerto Rico Civil Code and the applicable provisions of the Code of Civil Procedure.
- (c) Health insurer – any disability insurer, authorized by the OCI to write health insurance in the Commonwealth of Puerto Rico, and any health services organization authorized by the OCI to offer health care plans in the Commonwealth of Puerto Rico, also including, participants under Public Law No. 95, enacted on June 29, 1963, as amended, known as the Health Benefits for Public Employees Act, and those that participate in the Government Health Insurance administered by the ASES, under the provisions of Public Law No. 72, enacted on September 7, 1993, as amended, and any other duly organized entity that is authorized to offer public or private health plans in the jurisdiction of the Commonwealth of Puerto Rico, under any other legislation.

- (d) Family health plan – health insurance written by a disability insurer or health care plan issued by a health services organization, or health plan, issued by any other duly organized entity that is authorized to offer any other duly organized entity that is authorized to offer a health plan to an insured member of family, considered to be the policyholder of the policy or principal insured, covering two or more eligible members of a family, including the husband, wife, dependent sons or daughters or any son or daughter not more than nineteen (19) years old including foster children and any other person who depends on the policyholder or principal insured of the policy.

As of the effective date of the family health plan, the dependent sons or daughters or any son or daughter who is between the age of nineteen (19) and twenty-five (25), who has not reached the age of twenty-five (25), and who lives permanently under the same roof as the policyholder or principal insured and depends on the policyholder or principal insured for his or her support, shall be eligible provided that a certification or class schedule is submitted, showing the payment stamp of a recognized educational institution, confirming that the person is enrolled at the institution. The minimum number of credits that the person must be enrolled for in order to be eligible for the family health plan is nine (9) credits or, if the person is enrolled for fewer than nine (9) credits, the student must be certified to be a candidate for graduation or for a Master's Degree.

- (e) Grandfather or grandmother - father or mother of the father or mother of an unemancipated minor or of a person who has been found to be legally incapacitated, who is the policyholder or principal insured of a family health plan, and who has been awarded the custody of such unemancipated minor or the guardianship of the legally incapacitated person, in a final Order entered by a Court of competent jurisdiction in the Commonwealth, under the principles and procedures regarding custody or guardianship provided in the Puerto Rico Civil Code and the Puerto Rico Code of Civil Procedure.

- (f) Relative – a blood relative of a legally incapacitated person to whom the guardianship of such legally incapacitated person has been awarded in a final Order entered by a Court of competent jurisdiction in the Commonwealth, under the principles and procedures regarding guardianship provided in the Puerto Rico Civil Code and the applicable provisions of the Puerto Rico Code of Civil Procedure and who is the policyholder or principal insured of a family health plan.

For the purposes of this Rule, a relative will also be any blood relative of an unemancipated minor who is the policyholder or principal insured of a family health plan and who has also been awarded the custody of such unemancipated minor in a final Order entered by a Court of competent jurisdiction in the Commonwealth, under the principles and procedures regarding custody provided in the Puerto Rico Civil Code and the applicable provisions of the Puerto Rico Code of Civil Procedure.

- (g) Policyholder or principal insured- grandfather or grandmother of an unemancipated minor or disabled person, or relative of an unemancipated minor or disabled person, who is the policyholder or the principal insured of a family health plan.

SECTION 4. DETERMINATION OF ELIGIBILITY OF AN UNEMANCIPATED MINOR OR A LEGALLY INCAPACITATED PERSON TO BE A DIRECT DEPENDENT IN A FAMILY HEALTH CARE PLAN

Subsection 1. All insurers writing health insurance shall be obligated to accept an unemancipated minor as a direct dependent in a family health plan, when the grandfather or grandmother or any other relative is the policyholder or principal insured, provided that a certified copy of the final Order of the Court awarding custody of the unemancipated minor to such grandfather, grandmother or relative is submitted to the insurer.

Subsection 2. All health care insurers shall be obligated to accept a legally incapacitated person

as a direct dependent in a family health plan, when the grandfather or grandmother or any other relative is the policyholder or principal insured, provided that a certified copy of the final Order of the Court declaring the person to be legally incapacitated, as well as the letter of guardianship or official legal document authorizing such grandfather, grandmother or relative to act as guardian of said legally incapacitated person is submitted to the insurer.

Subsection 3. The policyholder or principal insured, who is the grandfather, grandmother or relative of an unemancipated minor or a legally incapacitated person, shall be responsible for paying the respective premiums, deductible amounts, or co-pays, according to the coverage selected under the family health plan.

SECTION 5. PENALTIES

If an insurer provided health plans should fail to comply with the provisions of this Rule, sanctions will be imposed as provided for such cases in the Puerto Rico Insurance Code, as well as in any other applicable provision of law.

SECTION 6. SEVERABILITY

If any part of this Rule is found to be null or invalid by a Court of competent jurisdiction, the order issued by such Court will not affect or invalidate the remaining provisions of this Rule, and the effect of such order will be limited to such part that may have been found to be invalid.

SECTION 7. EFFECTIVE DATE

The provisions of this Rule will enter into effect thirty (30) days after filing with the Department of State, as provided in Public Law No. 170, enacted on August 12, 1988, as amended.

DORELISSE JUARBE-JIMÉNEZ
COMMISSIONER OF INSURANCE

MINERVA RIVERA-GONZALEZ
EXECUTIVE DIRECTOR OF ASES

ÁNGEL ORTIZ-GARCÍA
SECRETARY OF THE TREASURY

Date of approval: December 23, 2008

Date of filing in the
Department of State: :

Date of filing in the
Legislative Library: :