



South Carolina Department of Insurance

Capitol Center
1201 Main St., Suite 1000
Columbia, South Carolina 29201

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

NIKKI R. HALEY
Governor

RAYMOND G. FARMER
Director

BULLETIN NUMBER 2013-12 *Addendum A*

TO: All Insurers Licensed to Transact Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations (collectively "Health Insurance Issuers")

FROM: Raymond G. Farmer *R.G.F.*
Director of Insurance

SUBJECT: Addendum to Bulletin 2013-12 to Address the Federal Guidance Specific to Required Notices to Impacted Policyholders

DATE: November 25, 2013

On November 21, 2013, the Center for Consumer Information and Insurance Oversight (CCIIO) issued a letter to state Insurance Commissioners announcing standardized notices that would be required of health insurance issuers that elect to offer to extend coverage under non-grandfathered health insurance plans that would otherwise be modified or terminated as a result of the 2014 market reforms provided for in the Patient Protection and Affordable Care Act. A copy of this letter is attached as Appendix D.

The South Carolina Department of Insurance (Department) issued its original guidance to carriers on November 19, 2013 via Bulletin 2013-12. The purpose of this notice is to amend Bulletin 2013-12 to address this subsequent federal guidance.

South Carolina will not be requiring nor enforcing the federal notice(s) required pursuant to CCIIO's November 21st guidance. Further, in response to the Department's objections to CCIIO, coupled with our guidance being issued prior to the federal guidance, we have been assured by CCIIO that the federal government will also not enforce these required notices in South Carolina. As such, carriers should proceed under the guidance issued by this Department via Bulletin 2013-12.

Any questions regarding this addendum to Bulletin 2013-12 should be submitted via email to healthdata@doi.sc.gov in the same manner prescribed in the original bulletin.

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

***CCIIO LETTER TO STATE INSURANCE
COMMISSIONERS,
DATED NOVEMBER 21, 2013***

(SEE THE FOLLOWING SEVEN PAGES)

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Date: November 21, 2013
From: Gary Cohen, Director, Center for Consumer Information and Insurance Oversight
Title: Insurance Standards Bulletin Series -- INFORMATION
Subject: Standard Notices for Transition to ACA Compliant Policies

On November 14, 2014, CMS issued a letter to State Insurance Commissioners outlining a transitional policy for non-grandfathered coverage in the small group and individual health insurance markets. If permitted by applicable State authorities, health insurance issuers may choose to continue coverage that would otherwise be terminated or cancelled, and affected individuals and small businesses may choose to re-enroll in such coverage. Under this transitional policy, non-grandfathered health insurance coverage in the individual or small group market that is renewed for a policy year starting between January 1, 2014, and October 1, 2014, will not be considered to be out of compliance with certain market reforms if certain specific conditions are met.

One of the conditions for the transitional policy is that the health insurance issuer must send a notice to all individuals and small businesses that received a cancellation or termination notice with respect to the coverage, or send a notice to all individuals and small businesses that would otherwise receive a cancellation or termination notice with respect to the coverage, that informs them of (1) any changes in the options that are available to them; (2) which of the specified market reforms would not be reflected in any coverage that continues; (3) their potential right to enroll in a qualified health plan offered through a Health Insurance Marketplace and possibly qualify for financial assistance; (4) how to access such coverage through a Marketplace; and (5) their right to enroll in health insurance coverage outside of a Marketplace that complies with the specified market reforms.

Included with this guidance are standard notices that are required to be used in order to satisfy the requirement outlined above. Attachment 1 is the notice that must be sent to policyholders that have already been sent a cancellation notice for the existing coverage. Attachment 2 is the notice that must be sent to policyholders that have not previously been sent a cancellation notice for the existing coverage. The appropriate notice must be delivered to the policyholder separately from any other plan materials or correspondence.

Also included as Attachment 3 is standard language that satisfies the requirement when health insurance issuers proceed with the cancellation of the coverage in either the small group or individual health insurance markets. The use of this language will be considered to satisfy the requirement to notify policyholders of the discontinuation of their policies if it is prominently displayed in all cancellation notices sent between the issuance of this guidance and December 31, 2014. CMS will be working closely with states as the primary enforcers of these notice requirements.

Where to get more information:

If you have any questions regarding this guidance, please e-mail CCIIO at marketreform@cms.hhs.gov.

Attachment 1

This notice must be used when a prior cancellation notice was sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We previously notified you that your current policy is being cancelled because it doesn't meet the minimum standards required by the health care law. We are now writing to inform you that, under federal guidance announced in November 2013, you may keep this coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.]¹

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

If you have questions, please contact us.

¹ The bracket language does not apply to the U.S. territories that do not have a Marketplace.

Attachment 2

This notice must be used when a prior cancellation notice has not been sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We are writing to inform you that, under federal guidance announced in November 2013, you may keep your existing coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.]²

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

If you have questions, please contact us.

² The bracket language does not apply to the U.S. territories that do not have a Marketplace.

Attachment 3

The following language may be used to satisfy the requirement to notify policyholders (and participants and beneficiaries covered under such coverage) of the discontinuation of their policies. This language should be prominently displayed and placed before language, if any, about auto-enrolling an individual in a specific product:

How Do I Choose A Different Plan?

Even though this plan will no longer be offered, you have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage.]³

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections. You have 60 days from the time your current plan ends to select a new plan that meets your needs.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

³ The bracket language does not apply to the U.S. territories that do not have a Marketplace.