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LINDA L. RUTHARDT
COMMISSIONER OF INSURANCE

Bulletin 97-10

To: **Carriers Offering Nongroup Guaranteed Issue Health Plans**

From: **Commissioner Linda Ruthardt**

Re: **Certain Issues Related to Enrollment in Nongroup Guaranteed Issue Health Plans**

Date: **November 24, 1997**

****PLEASE NOTE****

Carriers that offer, sell, issue, deliver, make effective or renew nongroup guaranteed issue health plans, are especially advised to review the contents of this bulletin.

- **Introduction**

The purpose of this bulletin is to address certain issues related to enrollment in nongroup guaranteed issue health plans: the extension of the initial open enrollment period by certain carriers, enrollment of subscribers of closed plans, timely submissions of applications and self-employed individuals.

Carriers offering nongroup guaranteed issue health plans pursuant to M.G.L. c. 176M ("Chapter 176M") should also refer to Division of Insurance ("Division") Bulletin 97-07, issued on June 6, 1997 for additional discussion of issues regarding these guaranteed issue health plans.

- **Extension of the Initial Open Enrollment Period By Certain Carriers**

As discussed in Bulletin No. 97-07, issued by the Division on June 9, 1997, Chapter 176M, § 3(b) generally provides for a variety of required and optional enrollment periods. In particular, Chapter 176M, § 3(b) provides for an initial two-month open enrollment period for the guaranteed issue health plans. Due to delays in implementation, the initial open enrollment period is being held from October 1, 1997 through November 30, 1997 with coverage to become effective January 1, 1998. Any carrier wishing to extend the open enrollment period beyond November 30, 1997 should notify the Division accordingly.

- **Enrollment of Subscribers of Closed Plans**

Based upon the Division's informal investigation of carriers offering nongroup guaranteed issue health plans, there still appears to be some confusion regarding the enrollment of subscribers of closed plans into guaranteed issue health plans.

Chapter 176M, § 3(d) states that "[a] carrier shall permit a subscriber of a closed plan to enroll in a guaranteed issue health plan at any time during the allowable three year renewal period," which is described in that section. As discussed in Bulletin No. 97-07, a carrier must accept a subscriber of any carrier's closed plans, not just that carrier's closed plans, if any. Carriers should also be aware that subscribers of closed plans are not limited to applying for a guaranteed issue health plan during the initial open enrollment period or subsequent annual open enrollment periods. Therefore, subscribers of closed plans may make an application for a guaranteed issue health plan throughout the calendar year. It should also be noted that carriers who receive an application from a subscriber of closed plans should still review the applicant is an eligible for a guaranteed issue health plan before issuing such coverage.

- **Submission of a Timely Application**

Inquiries have been made to the Division regarding the cut-off point that a carrier should rely on when determining whether an applicant has made the application within the required time period, if one exists for the applicant.

It is the Division's position that if the application is being mailed to the carrier by the applicant, the carrier should rely on the "postmark rule," i.e., the date that the application is postmarked by the U.S. Postal Service or the date the consumer provided the application for delivery through any other delivery service.

- **Self-Employed Individuals: Nongroup Versus Small Group**

Inquiries have been made to the Division about what criteria should be used to identify whether an individual is to be considered self-employed for the purpose of purchasing health insurance. All insurers that offer nongroup guaranteed issue health plans also offer small employer health plans. Depending upon their specific status, self-employed individuals can only be eligible to purchase either a guaranteed issue health plan or a small employer group health plan. Carriers are expected to assist all self-employed individuals to determine which type of plan the person is eligible to purchase.

Any questions regarding this bulletin should be directed to Kevin Beagan, Director of the Health Unit of the State Rating Bureau at the Division of Insurance, at (617) 521-7347.