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Bulletin 98-05

To: Carriers with Nongroup Closed Plans and Guaranteed Issue Health Plans

From: Commissioner Linda Ruthardt

Re: Nongroup Closed Plans and Enrollment Issues

Date: May 11, 1998

The purpose of this bulletin is to address two issues related to nongroup closed plans and enrollment under the Nongroup Health Insurance Law, G.L. c. 176M ("Chapter 176M").[1]

- **Moving From A Nongroup Closed Plan to Another Nongroup Closed Plan**

The Division of Insurance ("Division") has reviewed whether an individual can choose to switch from one nongroup closed plan to another nongroup closed plan where both plans exist within the same carrier's book of business. Included in this question is the issue of whether the term "closed plan," as defined in Chapter 176M, refers to each different closed plan policy form or to the carrier's entire closed nongroup book of business.

Under Chapter 176M, § 1, a closed plan is

> a nongroup health plan issued by a carrier to a natural person for said person, as well as any covered dependents, prior to the first day of the first open enrollment period specified in subsection (b) of section three. A carrier may permit a natural person to continue to add new dependents to a policy issued under a closed plan.

As discussed in Division Bulletins Nos. 97-07 (issued on June 9, 1997) and 98-02 (issued on April 2, 1998), pursuant to the terms of Chapter 176M, § 3, as of October 1, 1997 all other

[1] Chapter 176M is being implemented under the Massachusetts individual market alternative mechanism pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as found in the Massachusetts submission to the Health Care Financing Administration for its alternative mechanism dated March 31, 1997. This document may be obtained from the Health Unit in the State Rating Bureau at the Division of Insurance at a cost of $25.00. Carriers should comply with this implmentation to avoid administrative penalties and sanctions, including but not limited to those contained in G.L. c. 176D.

nongroup health plans in effect on that day are considered to be closed plans and are closed to new subscribers except for the new dependents that may be added to the policy.

Additionally, it appears to the Division that Chapter 176M recognizes that a carrier may have more than one nongroup closed plan and treats each such closed plan in a carrier's book of business as a separate product. For example, in the definition for "health plan" in Chapter 176M, § 1, indemnity plans are referred to as "any individual, general, blanket or group *policy* of health, accident or sickness insurance...." (emphasis added). Also, under Chapter 176M, § 5, carriers are required to file nongroup rate filings for closed plans with the Division. In particular, Chapter 176M, § 5(2) outlines information that a carrier must provide for "*each*...closed plan" that the carrier has in its book of business. (emphasis added).

In conclusion, a carrier may add dependents to existing nongroup closed plans as described in the definition of a closed plan. Other than these dependents, a carrier may not enroll new individuals into a closed plan after October 1, 1997. This prohibition also includes a prohibition on allowing an individual in a nongroup closed plan to move to a different nongroup closed plan within the carrier's book of business; each closed plan must be considered separately closed to new enrollment and a carrier may not allow an individual to switch from one of its closed plans to another of its closed plans.

- **Moving From Nongroup Closed Plan to Nongroup Guaranteed Issue Health Plan**

Under Chapter 176M, § 3(d), 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 noted in Division Bulletin No. 97-07, a carrier must accept a subscriber of any carrier's closed plan, not just that carrier's closed plan(s) under this provision. Also, subscribers of closed plans may make an application for a guaranteed issue health plan throughout the calendar year and are not limited to applying for a guaranteed issue health plan during the initial open enrollment period or subsequent annual open enrollment periods. However, a carrier that receives an application from a subscriber of a nongroup closed plan should still review whether the applicant meets the definition of an eligible individual for a guaranteed issue health plan before issuing such coverage.

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